Calendar No. 609

99th Congress
2d Session

SENATE

REPORT
99-280

DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

REPORT

[To accompany S. 2295]

ON

AMENDING TITLE 10, UNITED STATES CODE, TO REORGANIZE AND STRENGTHEN CERTAIN ELEMENTS OF THE DEPARTMENT OF DEFENSE, TO IMPROVE THE MILITARY ADVICE PROVIDED THE PRESIDENT, THE NATIONAL SECURITY COUNCIL, AND THE SECRETARY OF DEFENSE, TO ENHANCE THE EFFECTIVENESS OF MILITARY OPERATIONS, TO INCREASE ATTENTION TO THE FORMULATION OF STRATEGY AND TO CONTINGENCY PLANNING, TO PROVIDE FOR THE MORE EFFICIENT USE OF RESOURCES, TO STRENGTHEN CIVILIAN AUTHORITY IN THE DEPARTMENT OF DEFENSE, AND FOR OTHER PURPOSES

together with

ADDITIONAL VIEWS

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

APRIL 14 (legislative day, APRIL 8), 1986.—Ordered to be printed

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AMENDING TITLE 10, UNITED STATES CODE, TO REORGANIZE AND STRENGTHEN CERTAIN ELEMENTS OF THE DEPARTMENT OF DEFENSE, TO IMPROVE THE MILITARY ADVICE PROVIDED THE PRESIDENT, THE NATIONAL SECURITY COUNCIL, AND THE SECRETARY OF DEFENSE, TO ENHANCE THE EFFECTIVENESS OF MILITARY OPERATIONS, TO INCREASE ATTENTION TO THE FORMULATION OF STRATEGY AND TO CONTINGENCY PLANNING, TO PROVIDE FOR THE MORE EFFICIENT USE OF RESOURCES, TO STRENGTHEN CIVILIAN AUTHORITY IN THE DEPARTMENT OF DEFENSE, AND FOR OTHER PURPOSES

April 14 (legislative day, April 8), 1986.—Ordered to be printed

Mr. Goldwater, from the Committee on Armed Services, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2295]

The Committee on Armed Services reports favorably an original bill to amend title 10, United States Code, to reorganize and strengthen certain elements of the Department of Defense, to improve the military advice provided the President, the National Security Council, and the Secretary of Defense, to enhance the effectiveness of military operations, to increase attention to the formulation of strategy and to contingency planning, to provide for the more efficient use of resources, to strengthen civilian authority in the Department of Defense, and for other purposes, and recommends that the bill do pass.

Purpose of the Bill

The purpose of this bill is to:

(1) improve the quality and enhance the role of professional military advice;

(2) strengthen civilian control of the military;

(3) ensure that senior civilian decision-makers receive the full range of divergent military advice;

(4) strengthen the representation of the joint military perspective and improve the performance of joint military duties;

(5) improve the preparation of, and incentives for, military officers serving in joint duty positions;

(6) enhance the warfighting capabilities of U.S. military forces by strengthening the authority of the unified and specified combatant commanders;

(7) increase the decentralization of authority within the Department of Defense;

(8) clarify the operational chain of command;

(9) reduce and streamline the defense bureaucracy;

(10) reduce the burdens of congressional oversight of the Department of Defense;

(11) increase top management attention to the formulation of military strategy, planning for contingencies, and the setting of priorities among major military missions;

(12) provide for the more efficient use of resources;

(13) improve the supervision and control of common supply and service agencies (Defense Agencies and Department of Defense Field Activities);

(14) clarify the roles, responsibilities, and authority of senior civilian officials and senior military officers of the Department of Defense; and

(15) amend title 10, United States Code, to make it fully consistent with the basic principles of the National Security Act of 1947.

SUMMARY OF THE BILL

This bill would substantially revise those chapters of title 10, United States Code, relating to the organization of the Department of Defense (DoD) and its major elements. It addresses the Office of the Secretary of Defense, the Joint Chiefs of Staff, the unified and specified combatant commands, the Defense Agencies and DoD Field Activities, the Department of the Army, the Department of the Navy, and the Department of the Air Force. This bill would also waive a substantial number of reports, notifications, and studies that either the President or DoD is currently required to submit to the Congress.

While retaining the organizational framework established by the National Security Act of 1947, this bill seeks to correct the operational and administrative deficiencies that have repeatedly occurred since the last defense reorganization legislation was enacted in 1958, as well as a number of problems that precede the 1958 legislation. In addition, the bill recommended by the Committee would give more appropriate statutory emphasis to various joint organizations, especially the unified and specified combatant commands, the Defense Agencies, and the DoD Field Activities.

The major provisions of this bill would:

(1) designate the Chairman of the Joint Chiefs of Staff (JCS) as the principal military adviser to the President, the National Security Council (NSC), and the Secretary of Defense;

(2) require the JCS Chairman to submit to the President, the NSC, and the Secretary of Defense any JCS member's advice in disagreement or in addition to the Chairman's advice;

(3) require the JCS Chairman to convene regular JCS meetings; to consult, unless impracticable, with other JCS members; and to consult, when appropriate, with the unified and specified combatant commanders;

(4) transfer to the JCS Chairman the principal duties now performed by the corporate JCS and update and expand those duties;

(5) require the JCS Chairman to prepare fiscally constrained strategic plans;

(6) require the JCS Chairman to advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of the Military Departments conform with the priorities established in strategic plans and with the operational requirements of the unified and specified combatant commands;

(7) require the JCS Chairman to submit a report every 3 years to the Secretary of Defense on the appropriateness of the roles and missions of the four Services;

(8) specify that the term of office of the JCS Chairman shall end no later than 6 months after the beginning of a new Presidency;

(9) create the new position of Vice Chairman of the Joint Chiefs of Staff with the grade of a 4-star officer and designate the Vice Chairman as the second-ranking military officer;

(10) assign the JCS Vice Chairman, unless otherwise directed by the President or the Secretary of Defense, the duty of serving as the acting Chairman in the absence of the JCS Chairman;

(11) specify that the JCS Chairman manages the Joint Staff and prescribes its duties and staffing procedures;

(12) specify that the operational chain of command, unless otherwise directed by the President, runs from the President to the Secretary of Defense to the unified and specified combatant commanders;

(13) authorize the President or the Secretary of Defense to place the JCS Chairman in the channel of command communications between the Secretary of Defense and the combatant commanders;

(14) authorize the combatant commanders to specify the chains of command and organizational relationships within their commands;

(15) strengthen and expand the "full operational command" authority of combatant commanders;

(16) strengthen the authority of the combatant commanders over the selection, retention, and evaluation of their staff members and their subordinate commanders;

(17) set out general principles for the Secretary of Defense to follow in ensuring that the personnel policies of the four Services enhance the ability of officers to perform joint duties;

(18) repeal the authority of the Secretary of Defense to reorganize DoD positions and activities that have been established in law;

(19) direct the Secretary of Defense to establish procedures for the effective review of the programs and budgets of the Defense Agencies and DoD Field Activities;

(20) direct the JCS Chairman to advise the Secretary of Defense on the wartime preparedness of certain Defense Agencies;

(21) specify the responsibilities of the Secretaries of the Military Departments to the Secretary of Defense;

(22) require the elimination of duplication between the headquarters staffs of each Military Department;

(23) specify that the functions of the Military Departments (to recruit, organize, supply, equip, train, etc.) are undertaken to meet the operational requirements of the combatant commands;

(24) reduce personnel in DoD headquarters staffs by 8,232;

(25) reduce personnel in the non-headquarters elements of the Defense Agencies and DoD Field Activities by 9,462; and

(26) waive the requirements for 268 Presidential or DoD reports, notifications, and studies to be provided to the Congress.

BACKGROUND

During World War II and the first 13 years of the postwar period, the current structure of the U.S. military establishment evolved through a series of organizational changes. The wartime changes, such as the formation of the Joint Chiefs of Staff and unified combatant commands, were not then incorporated into the laws governing the U.S. military establishment. The experiences of World War II, however, were the major impetus behind the National Security Act of 1947 which created a unified National Military Establishment. Additional statutory changes occurred in the 1949 Amendments, which created the Department of Defense, and the 1958 Amendments to the National Security Act. In 1953, President Eisenhower made a number of additional changes in the form of Reorganization Plan No. 6.

No major statutory changes in defense organization have occurred since 1958. Despite the absence of change, a series of studies over the past three decades has continuously questioned the effectiveness of the organizational arrangements for the U.S. military establishment. Concerns about organizational shortcomings, voiced earlier, were again raised at the beginning of the 1980's.

During February 1982, General David C. Jones, USAF, then Chairman of the Joint Chiefs of Staff, wrote in an article, entitled "Why the Joint Chiefs of Staff Must Change" (Directors & Boards, Winter 1982), that structural problems diminish the effectiveness of the Joint Chiefs of Staff. His remarks were soon followed by similar criticism of the JCS system by General Edward C. Meyer, USA, then Chief of Staff of the U.S. Army. The public expression of these views by two incumbent members of the JCS renewed serious consideration of the strengths and weaknesses of the institution of the Joint Chiefs of Staff and eventually led to a much broader examination of the organizational and procedural problems of the entire Department of Defense.

In response to the criticism of General Jones and General Meyer, the Investigations Subcommittee of the House Committee on Armed Services, under then Chairman Richard C. White (D-Texas), initiated a series of hearings on JCS reorganization during April 1982. These hearings led to the preparation of the Joint Chiefs of Staff Reorganization Act of 1982, H.R. 6954, which passed the House of Representatives in August 1982.

The Senate Committee on Armed Services first addressed the issue of JCS reorganization during a hearing on December 16, 1982. No further action on H.R. 6954 was taken, however, by the Committee during the 97th Congress.

In June 1983, Senator John Tower (R-Texas), then the Chairman of the Senate Committee on Armed Services, and the late Senator Henry M. Jackson (D-Washington), the Ranking Minority Member, initiated a comprehensive review of the organizational relationships and decision-making procedures of the Department of Defense (DoD). Senator Tower and Senator Jackson decided that this review, while addressing the JCS, should include all major organizational elements of DoD as well as congressional review and oversight of national defense. This decision was based upon a recognition of the substantial interrelationships among major DoD organizations which preclude examination of one organization in isolation. As part of this review, the Committee held a series of 12 hearings during the Summer and Fall of 1983 in which it took testimony from 31 witnesses. In addition, Senator Tower and Senator Jackson directed the staff of the Committee on Armed Services to prepare a comprehensive study of the organization and decision-making procedures of DoD and the Congress. This study effort, initiated in late 1983, continued throughout 1984 and 1985.

In 1983, the Administration submitted a legislative proposal on JCS reorganization. Subsequently, under the chairmanship of Representative Bill Nichols (D-Alabama), the Investigations Subcommittee of the House Committee on Armed Services again held hearings on the issue of JCS reorganization. The resulting bill, H.R. 3718, passed the House of Representatives on October 17, 1983.

In 1984, the House of Representatives amended the DoD Authorization Bill for fiscal year 1985 to include the substance of H.R. 3718. Several provisions of H.R. 3718 were accepted in the House-Senate conference and were enacted into law. Those provisions made the JCS Chairman the spokesman for the unified and specified combatant commanders on their operational requirements, increased the limit on the tour of duty of Joint Staff officers from 3 to 4 years, reduced to 2 years the minimum time between assignments of an officer to the Joint Staff, and removed the 3-year limit on the tour of duty of the Director of the Joint Staff. Moreover, the JCS Chairman was made responsible for selecting Joint Staff officers and determining when issues under consideration by the Joint Chiefs of Staff were to be decided. The Secretary of Defense was directed to ensure that the personnel policies of the Services concerning officer promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.

In January 1985, Senator Barry Goldwater (R-Arizona) and Senator Sam Nunn (D-Georgia), the Chairman and Ranking Minority Member, gave increased emphasis to the Senate Armed Services Committee's ongoing study effort. In May 1985, a Task Force on Defense Organization, co-chaired by Senator Goldwater and Senator Nunn, was formed with nine committee members. The task force reviewed the drafts of the staff study and provided guidance for its completion, On October 16, 1985, the Committee staff's 645-page study, entitled "Defense Organization: The Need for Change" (Senate Print 99-86), was publicly released. During November and December 1985, 10 hearings were held on this study during which testimony was taken from 27 witnesses.

In 1985, the Investigations Subcommittee of the House Committee on Armed Services conducted a third series of hearings on JCS reorganization. The resulting bill, H.R. 3622, the Joint Chiefs of Staff Reorganization Act of 1985, passed the House of Representatives by a vote of 383-27 on November 20, 1985.

Based upon the Committee staff's study, related hearings and meetings, and H.R. 3622, the Committee staff prepared a bill for consideration by the Senate Committee on Armed Services. Markup of the bill, entitled the "Department of Defense Reorganization Act of 1986," began on February 4, 1986, and after 14 sessions, was completed on March 6th when the Committee approved the bill by a 19-0 vote. During its review, the Committee considered 80 written amendments and numerous oral amendments. This bill was substantially improved as a result of these amendments.

While the Senate Committee on Armed Services was conducting its markup sessions, Members of the House Committee on Armed Services introduced on February 26, 1986 four bills relating to provisions of the Senate Committee's bill. These bills were:

H.R. 4234, Armed Forces Combatant Command Reorganization Act
H.R. 4235, Joint Officer Capability Act
H.R. 4236, Military Department Reorganization Act of 1986
H.R. 4237, a bill relating to improved oversight of Defense Agencies

The Investigations Subcommittee of the House Committee on Armed Services conducted hearings on these four bills during late February and early March. On March 11, 1986, Members of the House Committee introduced H.R. 4370, entitled the "Department of Defense Reorganization Act of 1986." H.R. 4370 consolidated the four separate defense reorganization bills introduced during February 1986. The Investigations Subcommittee plans to markup H.R. 4370 in the near future.

On February 28, 1986, "An Interim Report to the President" was submitted by the President's Blue Ribbon Commission on Defense Management, headed by Mr. David Packard. During its markup sessions, the Senate Committee on Armed Services evaluated the Packard Commission's recommendations and found them to be consistent with the provisions of this bill.

This bill is the result of more than 3 years of deliberate and comprehensive research and study by the Senate Committee on Armed Services. The Committee has also benefited from an equally vigorous effort by the House Committee on Armed Services.

DISCUSSION OF PROBLEMS

In its more than 3-year study of the organization and decision-making procedures of the Department of Defense (DoD) and the Congress, the Committee examined a total of 34 specific problem areas. One obvious conclusion of the Committee's work is that the problems currently plaguing the Department of Defense have not just recently evolved. For the most part, they have been evident for much of the post-World War II period; some problems even predate this period. In the last several years, the Secretary of Defense, Chairman of the Joint Chiefs of Staff, and other DoD officials have recognized a number of these problems and have implemented numerous improvements. The Committee has concluded, however, that many serious problems remain.

For many of the problems examined by the Committee, legislative action would be inappropriate; others could only be partially remedied by legislation. In its work on this bill, the Committee focused on ten problems which it considered appropriate for legislative action. These problems are briefly described in this portion of the report. A more detailed description and analysis of each problem is contained in the Committee staff's study, "Defense Organization: The Need for Change" (Senate Print 99-86).

1. Imbalance between Service and joint interests

Under current arrangements, the three Military Departments and four Services exercise power and influence which are out of proportion to their statutory duties. The predominance of Service perspectives in DoD decision-making results from three basic problems: (1) the Office of the Secretary of Defense (OSD) is not organized to effectively integrate Service capabilities and programs into the forces needed to fulfill the major missions of DoD; (2) the Joint Chiefs of Staff (JCS) system is dominated by the Services which retain an effective veto over nearly every JCS action; and (3) the unified combatant commands are also dominated by the Services, primarily through the strength and independence of the Service component commanders within those commands and constraints placed upon the authority of the unified combatant commanders. In sum, the problem of undue Service influence arises not from Service malfeasance, but principally from the weaknesses of organizations that are responsible for joint military preparation, planning, and operations.

2. Inadequate joint military advice

The JCS system has not been capable of adequately fulfilling its responsibility to provide useful and timely joint military advice. The institutional views of the JCS often take too long to prepare; are not in the concise form required by extremely busy senior officials; and frequently do not offer clear, meaningful recommendations on issues affecting more than one Service.

3. Inadequate quality of joint duty military personnel

Regarding joint duty military personnel, Hanson W. Baldwin, the noted newspaper columnist, made the following statement in 1949:

> One of the tragedies of unification is that there are not, at the top, men who really know enough about each of the services to evaluate all of those services. (The New York Times, October 16, 1949, page 34)

Unfortunately, this statement is nearly as true today as it was in 1949. DoD has given insufficient attention to the development of military officers capable of effectively performing the responsibilities of joint duty assignments. In addition, the substantial disincentives to serving in such assignments have been permitted to persist.

4. Imbalance between the responsibilities and the command authority of the unified combatant commanders

The concept of unified command, as formulated in the immediate postwar period and articulated by President Eisenhower in 1958, has not been adequately implemented. At that time, President Eisenhower stated:

> Because I have often seen the evils of diluted command, I emphasize that each unified commander must have unquestioned authority over all units of his command. * * * Today a unified command is made up of component commands from each military department, each under a commander of that department. The commander's authority over these component commands is short of the full command required for maximum efficiency.

Despite President Eisenhower's efforts, the authority of the unified combatant commanders remains extremely limited. They have weak authority over their Service component commands, limited influence over resources, personnel, and joint training, and little ability to promote greater unification within their commands. As a result, the unified combatant commands remain loose confederations of single-Service forces which are often unable to provide effective unified action across the spectrum of military missions.

5. Confused and cumbersome operational chains of command

There is confusion over the roles of the Secretary of Defense and the Joint Chiefs of Staff in the operational chain of command. As a result, the appropriate relationships between the unified and specified combatant commanders and those above them in the chain of command are uncertain. Moreover, the combatant commanders lack the authority to specify the chains of command within their commands to meet operational needs. As a result, the chains of command are often cumbersome and ill-suited to effective operational command.

6. Ineffective strategic planning

The overall performance of DoD suffers from the predominance of the programming and budgeting phases of the resource allocation process. Too much of the time and attention of senior DoD civilian and military officials is consumed by resource decisions. This has led to insufficient attention to strategic planning. Moreover, there is a weak relationship between strategic planning and fiscal constraints. At present, DoD strategic planning resources are underutilized because they are not effectively applied to solving the major policy, strategy, and program issues that result from fiscal contraints.

7. Inadequate supervision and control of Defense Agencies and DoD Field Activities

There are 14 Defense Agencies and 8 DoD Field Activities that carry out common supply or service functions for the entire DoD. These agencies and activities have not been adequately supervised and controlled. One negative consequence of this inattention is that the Defense Agencies are more oriented to peacetime activities and efficiencies than to supporting the combatant commands in wartime.

8. Confusion concerning the roles of the Secretaries of the Military Departments

There has been a failure to determine what role the Secretaries of the Military Departments should play in the unified Department of Defense. With the creation of the National Military Establishment in 1947, the Secretaries of the Military Departments remained powerful individuals. Their relationship to the Secretary of Defense, however, was never precisely defined. As the role of the Secretary of Defense was clarified and strengthened in 1949, 1953, and 1958, little attention was given to what roles could usefully be fulfilled by the Secretaries of the Military Departments. In essence, there has been little, if any, redefining of the roles of the Secretary of a Military Department during his transition from head of an independent, executive-level department to a subordinate of a powerful Secretary of Defense.

9. Unnecessary duplication in the top management headquarters of the Military Departments

Each Military Department has two separate headquarters staffs (three in the Navy because of its dual-Service structure): the Secretariat and the military headquarters staff. The Secretaries of the Military Departments do require the assistance of senior civilian officials to carry out their responsibilities. The division of work between the Secretariats which include these officials and the military headquarters staffs has not, however, been adequately defined. As a consequence, there has been unnecessary duplication of effort and unnecessary levels of staff review. The overall result has been inefficient delays and micro-management.

10. Congressional micro-management of the Department of Defense

The Congress is becoming increasingly involved in the details of the national defense effort, not just the broad policies and directions that guide it. In particular, there has been a steady and dramatic increase in the extent of congressional involvement in the annual defense budget submission. The following table is representative of the alarming pace at which the congressional micro-management problem is becoming more serious.

CONGRESSIONAL ACTIONS AS PART OF DOD OVERSIGHT AND REVIEW

	1970	1976	1982	1985	Percent increase, 1970–85
Requested studies and reports	36	114	221	458	1,172
Other mandated actions	18	208	210	202	2,022
General provisions in law	64	96	158	213	233
Number of programs adjusted:					
In authorization	180	222	339	1,315	631
In appropriation	650	1,032	1,119	1,848	184

Source: Department of Defense.

Congressional micro-management places an excessive burden on the Department of Defense, diverts attention away from high priority responsibilities, and produces substantial program instability.

CONGRESSIONAL REFORM

The Congress has a central Constitutional role in the overall planning and management of the Nation's security and must share reponsibility for any fundamental problems that exist in current organizations and processes. The Committee is convinced that the current practice of congressional review and oversight has produced substantial instability in defense policies and programs. Efforts to reorganize the Department of Defense will prove imperfect unless accompanied by fundamental changes on Capitol Hill.

KEY PROBLEMS

Dominance of budget process

The budget process has come to dominate the agenda of the Congress and is seriously degrading the quality of congressional oversight of the Defense Department. The Congress now spends months debating the level of real growth in the defense budget instead of what it takes to defend U.S. interests against threats to those interests. The level of spending is decided without a careful analysis of defense objectives and requirements.

Duplicative committee reviews

Compounding the year-long review of the budget is the increasing duplication of activity among committees. All three steps in the legislative cycle—budgeting, authorizing, and appropriating—are assigned to separate committees. The three functions are supposed to be complementary, but, in fact, they are in large part redundant. In practical terms, the Congress approves a defense budget three times each year, and each time makes changes to earlier decisions.

Congress has trivialized its oversight responsibilities

The Constitution envisioned that the Congress would act as the Nation's board of directors on public policy issues, determining policy goals and setting overall directions. Instead, Senators and Representatives and their staffs are acting more and more like national program managers.

Congressional micro-management has become pervasive. Last year, congressionally mandated studies and reports from DoD grew to 458, which is a 12-fold increase since 1970. Congress adjusted over 1,800 separate programs in the Defense Department budget request last year. This micro-management exacerbates the inherent management problems already existing within DoD and has served to trivialize the Congress' true responsibilities. The Congress spends more time worrying about trivia than about fundamental defense issues and policies.

Focus on inputs, not outputs

The Congress has become preoccupied with trivia because of its shortsighted focus on accounting inputs rather than on defense outputs. Both DoD and the Congress are approaching the defense program with an accountant's mentality, viewing the budget as thousands of individual debit and credit entries. Central policy initiatives get lost in the maze of minor budget details. Real growth instead of real defense has become the hallmark of the defense debate.

AGENDA FOR CHANGE

Recognizing these fundamental problems, the Committee established three fundamental goals for congressional reform:

Disengage from patterns of micro-management and restore a focus on strategic policy and direction;

Shift the focus of congressional oversight away from resource inputs to mission outputs; and

Reinforce joint perspectives in defense programs and policies and discourage single-Service perspectives.

Congressional reform cannot, however, be readily legislated. Fundamental reform depends on a shift in perspective and a realignment of the process which will take time. However, steps can be taken to help introduce underlying changes. The Committee took the following concrete steps to start implementation of the goals that it established:

(1) Last spring the Congress approved the legislative provision recommended by the Committee to begin biennial budgeting for the Department of Defense, starting with the fiscal years 1988–1989 biennium. This change promises to be one of the most far-reaching reforms considered. It will bring needed stability to defense acquisition programs, limit the time required by DoD to plan and prepare defense budget submissions, and shift the focus away from annual budget details and toward broader policy issues.

(2) The Committee has significantly revised its approach to hearings. The new approach emphasizes hearings on joint operations and missions, highlights mission outputs, and seeks to minimize demands on senior Defense Department personnel. This shift in emphasis began in 1981 with the restructuring of the Committee's subcommittees along mission lines. New committee policies have strengthened this shift.

(3) Recognizing the need for fundamental realignment in the Senate, the Committee has petitioned the Senate leadership to create a task force of the defense oversight committees and sub-

committees to coordinate efforts to minimize duplication and micro-management. A primary goal for the task force will be to redraw and reassert jurisdictional differences among the committees. The task force would also work to facilitate the implementation of biennial budgeting, which was a key recommendation of the President's Blue Ribbon Commission on Defense Management.

(4) Section 503 of this bill would waive 268 statutory reporting requirements imposed on the Department of Defense and the President. This represents a reduction by about two-thirds of the total defense reporting requirements imposed in statute. The Committee has also reviewed tougher guidelines for approving subsequent study and reporting provisions.

(5) The Committee is preparing changes to its rules and procedures that will streamline the Committee's oversight.

(6) The Committee leadership has proposed to their House Armed Services Committee counterparts a joint effort to establish procedures for minimizing duplicative hearings and reporting requirements. It is hoped these procedures will be implemented in the 1st session of the 100th Congress.

Congressional reform must extend beyond the confines of defense oversight. Ultimately, fundamental patterns of congressional behavior must change. Committee jurisdictions must be reasserted and tightened to minimize overlap and duplication. Redundant legislative phases of budgeting, authorizing, and appropriating must be consolidated. The orderly process of deliberation within committees, rather than unending floor amendments, must again become customary in the Senate. The Committee is prepared to take the necessary steps in its own procedures to begin changes that ultimately must be made by the entire Congress.

OVERVIEW OF THE BILL

This bill, the Departmnt of Defense Reorganization Act of 1986, has five titles. The first four titles would amend title 10, United States Code, while the fifth title, containing general provisions and the effective date for this bill, would amend other provisions of law or prescribe new free-standing provisions of law. Title I of this bill would amend subtitle A (General Military Law) of title 10. Title II of this bill would amend subtitle C (Army) of title 10. Title III of this bill would amend subtitle C (Navy and Marine Corps) of title 10. Title IV of this bill would amend subtitle D (Air Force) of title 10.

In total, 21 chapters of title 10 would be amended by this bill; two chapters would be repealed; and three new chapters would be created. The chapters of title 10 that would be amended, repealed, or created by the first four titles of this bill are:

TITLE I—DEPARTMENT OF DEFENSE

Chapter 3—General Powers
Chapter 4—Department of Defense
Chapter 5—Joint Chiefs of Staff
Chapter 6—Combatant Commands (new)
Chapter 8—Defense Agencies
Chapter 32—Officer Strength and Distribution in Grade
Chapter 35—Temporary Appointments in Officer Grades

Chapter 36—Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List
Chapter 41—Special Appointments, Assignments, Details, and Duties
Chapter 43—Rank and Command
Chapter 165—Accountability and Responsibility
Chapter 171—Requirement for Authorization of Appropriations; Oversight of Cost Growth in Major Programs (new)

TITLE II—ARMY

Chapter 303—Department of the Army
Chapter 305—The Army Staff
Chapter 307—The Army

TITLE III—NAVY

Chapter 503—Department of the Navy
Chapter 505—Secretary, Under Secretary, and Assistant Secretaries of the Navy (repealed)
Chapter 507—Office of the Comptroller of the Navy (repealed)
Chapter 509—Office of the Chief of Naval Operations
Chapter 513—Bureaus; Office of the Judge Advocate General; Office of Naval Research
Chapter 515—Commandant of the Marine Corps; Headquarters, Marine Corps
Chapter 518—Composition of the Department of the Navy (new)
Chapter 661—Accountability and Responsibility

TITLE IV—AIR FORCE

Chapter 803—Department of the Air Force
Chapter 805—The Air Staff
Chapter 807—The Air Force

SECTION-BY-SECTION ANALYSIS OF THE BILL

Each section of each title of this bill is described and analyzed in this portion of the report. As a note, the term "Services" is not used in title 10, United States Code. Instead, the term "armed forces" is used to refer to the Army, Navy, Air Force, Marine Corps, and Coast Guard. Given the more frequent use of the term "Services" in defense literature, it is used extensively throughout this report. For purposes of this report, "Services" means the Army, Navy, Air Force, and Marine Corps.

Title I—Department of Defense

SEC. 101. MODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO REORGANIZE THE DEPARTMENT OF DEFENSE

Subsection (a) of section 125 of title 10 currently authorizes the Secretary of Defense to transfer, reassign, consolidate, or abolish any DoD function, power, or duty, including those vested by law in DoD or in a DoD officer, official, or agency. In essence, the Congress has granted broad legislative authority to the Secretary of Defense in that he can change statutory prescriptions on his own initiative. There are only two limitations on this authority: (1) the Secretary must provide a 30-day notice to the Congress of proposed changes to functions, powers, and duties specified in law; and (2) the Congress provided for a one-house veto of proposed changes to the functions assigned by law to any of the four Services. This one-house veto mechanism has been rendered constitutionally suspect by three Supreme Court rulings, principally *Immigration and Naturalization Service* v. *Chadha* (462 U.S. 919).

While appreciating the need for the Secretary of Defense to have flexibility to reorganize in response to changing defense and management requirements, the Committee believes that the broad legislative authority now granted to the Secretary of Defense cannot be justified. Section 101 of this bill would amend subsection (a) of section 125 to repeal that portion of the subsection that provides the Secretary's authority to change functions, powers, and duties specified in law. As a result, the Congress would have to approve such changes in the normal legislative process, except in time of hostilities or imminent threat of hostilities when the President would be authorized by subsection (b) of section 125 to change statutory prescriptions relating to functions, powers, and duties.

Section 101 of this bill would amend subsection (b) of section 125 to clarify that the President's authority does include functions, powers, and duties vested by law. As a note, the President's authority is limited to the transfer, reassignment, or consolidation; it does not include the authority to abolish. Subsection (b) would also be amended to provide new designations for the sections relating to the functions of the Navy and Marine Corps. These redesignations are consistent with the reorganization of part I of subtitle C of title 10 that would be provided by title III of this bill.

As the remaining portion of subsection (a) of section 125 would provide, the Secretary of Defense would continue to have broad authority to reorganize any position or activity within DoD not specified in law. In addition, the Committee has made a concerted effort in this bill to reduce the number of functions, powers, and duties specified in law.

Section 101 of this bill would limit the Secretary's authority to reassign, transfer, or consolidate a function, power, or duty only to the extent that the Congress has expressly created a function, power, or duty and has specifically assigned it to an entity created by the Congress. Section 101 would limit the Secretary's authority to abolish a function, power, or duty only to the extent that the Congress has expressly mandated that the function, power, or duty be performed.

It is the Committee's intent that the mere reference to an entity (or a function, power, or duty of such entity) in provisions of law would not preclude exercise of the Secretary's reorganization authority. Likewise, provisions of law that regulate the conduct of a function, power, or duty—but which do not mandate the performance of such a function, power, or duty—would not preclude exercise of the Secretary's reorganization authority. Rather, to the extent that such a function, power, or duty is retained in any DoD entity, the existence of regulatory provisions of law merely requires that the function, power, or duty be performed in accordance with such provisions of law.

Section 101 of this bill would also delete subsection (d) of section 125 which provides authority for the Secretary of Defense to create common supply and service activities, the Defense Agencies and DoD Field Activities. This authority would be retained in title 10, but would be reenacted in a new section 191 in chapter 8.

SEC. 102. ORGANIZATION OF THE DEPARTMENT OF DEFENSE

At present, the composition of the Department of Defense is not prescribed in title 10. Section 102 of this bill would amend section 131 of title 10 to prescribe the composition of the Department of Defense.

SEC. 103. POWERS AND DUTIES OF THE SECRETARY OF DEFENSE

Section 103 of this bill would amend section 133 of title 10 to modify the required contents of the Secretary of Defense's annual report to the Congress and to specify three additional duties for the Secretary of Defense. Regarding the annual report, subsection (e) of section 133 would be amended to require the Secretary to include a discussion and justification of major military missions (e.g., strategic deterrence, NATO defense) and a discussion of the relationship of foreign policy, major military missions, and military force structure to each other. The Committee believes that the Washington Headquarters of the Department of Defense gives insufficient attention to major military missions. The requirement that missions be a key component of the Secretary's annual report may help increase attention to this neglected area.

The Department of Defense has often suffered from inexperienced political appointees who lack a substantial background in military strategy, operations, and resource allocation, which are so important if one is to contribute immediately to effective policy formulation and management. To help remedy this situation, section 103 would amend section 133 of title 10 to add a new subsection (f) that would require the Secretary of Defense to inform the President, whenever a vacancy in a political position occurs, of the qualifications needed by an appointee to carry out effectively the duties and responsibilities of that position. This requirement is intended to foster a greater involvement by the Secretary of Defense in the selection of his key civilian subordinates and more explicit consideration of the experience and skills needed in each position. The Committee fully expects the Secretary of Defense to give serious attention to this new duty. DoD can no longer afford to fill senior civilian positions with on-the-job trainees. In a field as complex as national defense, inexperienced political appointees are a fundamental weakness in achieving sound and effective management.

The second additional duty that would be specified for the Secretary of Defense is a requirement that he provide annually to the JCS Chairman written policy guidance for the preparation and review of contingency plans. Each year, the JCS system and the unified and specified combatant commands prepare plans for the actual employment of military forces in contingencies that can reasonably be anticipated. The utility of these contingency plans in an actual crisis would be improved if they were based upon policies and political assumptions approved by the President and Secretary of Defense. Therefore, section 133 of title 10 would be amended by section 103 of this bill to add a new subsection (g) that would require the Secretary of Defense to provide each year written policy guidance for contingency plans.

The third additional duty for the Secretary of Defense that would be prescribed by section 103 of this bill (in a new subsection (h) of section 133) is a requirement that he keep the Secretaries of the Military Departments informed on military operations and activities of the Department of Defense that directly affect their responsibilities. While the Secretaries of the Military Department have no role in operational matters, areas for which they have responsibility can be affected by military operations. For this reason, the Committee believes that the Secretary of Defense should be specifically required to keep the Secretaries of the Military Departments informed whenever their responsibilities would be affected.

SEC. 104. REDESIGNATION OF SECTIONS

Section 104 of this bill would amend chapter 4 of title 10 by redesignating 16 current sections of the chapter. These redesignations would provide a more appropriate format and organization for chapter 4.

SEC. 105. OFFICE OF THE SECRETARY OF DEFENSE

The Office of the Secretary of Defense is not currently established in statute. Section 105 of this bill would amend chapter 4 of title 10 to add a new section 134 establishing the Office of the Secretary of Defense and specifying its composition.

Subsections (c) and (d), which currently are section 718 and subsection (d) of section 136, respectively, of title 10, would be reenacted in section 134. Subsection (c) would continue to authorize the assignment of military officers as assistants or personal aides to the Secretary of Defense, but it would also continue to prohibit the Secretary from establishing a military staff other than the JCS, assisted by the Joint Staff. Subsection (d) would continue to require the personnel of the Military Departments to cooperate fully with the personnel of the Office of the Secretary of Defense to achieve efficient administration of DoD and to carry out effectively the authority, direction, and control of the Secretary of Defense.

SEC. 106. UNDER SECRETARIES OF DEFENSE

Section 106 of this bill would make only one significant change to section 136 (as redesignated) of title 10 dealing with the Under Secretaries of Defense. That change would be the repeal of the current restriction that a person may not be appointed Under Secretary of Defense for Policy within 10 years after relief from active duty as a commissioned officer. This restriction, which is designed to enhance civilian control of the military, was continued when the second Deputy Secretary of Defense position was previously converted into the Under Secretary of Defense for Policy. Given the absence of a significant role for the Under Secretary of Defense for Policy in preserving civilian control, the Committee sees no need for this restriction to be continued.

While this bill does not alter the number, titles, or duties of the currently authorized Under Secretaries of Defense, the Committee has approved in principle the creation of an Under Secretary of Defense for Acquisition. An amendment to create this new position was offered by Senator Alan J. Dixon (D-Illinois) during the markup sessions on this bill. Although the Committee found this proposal to have merit, especially in light of a similar recommendation by the President's Blue Ribbon Commission on Defense Management, and approved it in principle, it was unable to formulate the implementing legislation. Such action was precluded by the absence in the Commission's recommendation of the necessary details on the duties of this position and on its relationships with existing officials. The Committee has referred this proposal to the Committee's Defense Acquisition Policy Subcommittee with the goal of preparing, if possible, a Committee amendment on the Under Secretary of Defense for Acquisition and other acquisition matters to be offered at the time of Senate consideration of this bill.

The Committee considered the creation of three mission-oriented Under Secretaries of Defense. While the Committee decided not to mandate such mission-oriented positions in law, it remains concerned about the absence of an adequate focus on major military missions in the Office of the Secretary of Defense. The office is now focused excessively on functional areas, such as manpower, research and development, and installations and logistics. As a result, material inputs, not mission outputs, are emphasized. The Committee strongly urges the Secretary of Defense to provide for a more appropriate balance between functional and mission orientations in the Office of the Secretary of Defense.

The Committee also considered the establishment of an Under Secretary of Defense for Readiness, Sustainability, and Support. This position would serve as the integrator of the various functional areas that contribute to military readiness. While the majority of these functional areas had been consolidated in the previous position of Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, they are now divided among a number of separate offices. Although the Committee decided not to create such an Under Secretary position in law, it does see the utility of establishing a readiness integrator in OSD at a level below the Secretary or Deputy Secretary of Defense.

SEC. 107. ASSISTANT SECRETARIES OF DEFENSE

At present, 11 Assistant Secretaries of Defense are authorized by law. Of these, the titles and duties of five are specified in law:

(1) Assistant Secretary of Defense for Health Affairs;

(2) Assistant Secretary of Defense for Manpower and Logistics (retitled by DoD as Assistant Secretary of Defense for Force Management and Personnel);

(3) Assistant Secretary of Defense for Reserve Affairs;

(4) Assistant Secretary of Defense for Command, Control, Communications, and Intelligence; and

(5) Assistant Secretary of Defense (Comptroller).

The Committee recommends that 11 Assistant Secretaries of Defense continue to be authorized, but that the title and duties of only one of these positions, the Assistant Secretary of Defense for Reserve Affairs, be specified in statute. Section 107 of this bill would amend section 137 (as redesignated) of title 10 to repeal the specification of the titles and duties of the other four Assistant Secretaries. The Committee believes that the Secretary of Defense should have substantial flexibility in designating his principal assistants. Providing this additional flexibility with respect to Assistant Secretaries of Defense will partially offset the repeal, as would be provided by section 101 of this bill, of the Secretary of Defense's current authority to transfer, reassign, consolidate, or abolish functions, powers, and duties specified in law.

The Committee recommends that the position of Assistant Secretary of Defense for Reserve Affairs be retained in law because of the continuing need to ensure an appropriate emphasis on the important role of the reserve components in the Nation's defense effort. Too often, the reserve components are not adequately considered in defense planning and resource allocation. The Committee believes that the statutory assignment of these responsibilities to an Assistant Secretary of Defense continues to be warranted.

Section 107 of this bill would further amend section 137 (as redesignated) of title 10 to make technical changes to subsection (c) relating to the authority of an Assistant Secretary of Defense to issue an order to a Military Department. In particular, clause (2) of subsection (c) would be amended to delete the phrase "or his designee", referring to a designee of a Secretary of a Military Department, which the Committee believes is unnecessary.

Section 107 of this bill would further amend section 137 (as redesignated) of title 10 to delete the current subsection (d). This subsection, relating to the cooperation of personnel in the Military Departments with OSD personnel, is more appropriately included in the new section 134 of title 10 dealing with the Office of the Secretary of Defense.

SEC. 108. COMPTROLLER OF THE DEPARTMENT OF DEFENSE

Section 108 of this bill would amend chapter 4 of title 10 to add a new section 138 dealing with the Comptroller of the Department of Defense. While the Committee recommends in section 107 of this bill that the Comptroller of the Department of Defense need not be specified as an Assistant Secretary of Defense, it does believe that the senior fiscal officer of the Department of Defense should be specified in law, should be appointed from civilian life, and should perform the fiscal duties now assigned to the Assistant Secretary of Defense (Comptroller).

Section 138 of title 10 would establish the position of Comptroller of the Department of Defense and would assign to that position the same duties now assigned to the Assistant Secretary of Defense (Comptroller). The Secretary of Defense could continue to designate the Comptroller of the Department of Defense as an Assistant Secretary of Defense. Alternatively, he could choose not to designate the Comptroller of the Department of Defense as an Assistant Secretary position.

SEC. 109. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

Section 109 of this bill would amend chapter 4 of title 10 to add a new section 141 dealing with the Inspector General of the Department of Defense. The Inspector General of the Department of Defense was established in 1982 by amendment of the Inspector General Act of 1978, which appears in the statutes as appendix 3 of title 5, United States Code. There is currently no reference to the DoD Inspector General in title 10. Section 141 of title 10 would merely cross-reference appendix 3 of title 5 in terms of the appointment and duties of the DoD Inspector General.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS

Section 110 of this bill would amend title 10 to make appropriate conforming and technical changes. Subsection (a) would reorganize the sections of chapter 4 of title 10 to make them conform with the redesignation of sections as provided in section 104 of this bill.

Subsection (b) would transfer section 2780 (as redesignated from section 133b) to chapter 165 of title 10. The current section 133b deals with reports to Congress on the sale or transfer of defense articles. This section is more appropriately included in chapter 165 dealing with Accountability and Responsibility.

Subsection (c) would create a new chapter 171 of title 10, with a chapter heading of "Requirement for Authorization of Appropriations; Oversight of Cost Growth in Major Programs." In addition, five redesignated sections of chapter 4 would be transferred to chapter 171:

Current section number	Redesignated section number	Current section heading
138	2871	Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.
139	2872	Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports.
139a	2873	Oversight of cost growth in major programs: Selected Acquisition Reports.
139b	2874	Oversight of cost growth of major programs: unit cost reports.
139c	2875	Major defense acquisition programs: independent cost estimates.

Subsection (c) would also amend the section heading for section 2872 (as redesignated) to remove "Secretary of Defense:" as the beginning of the heading. The five sections that would be transferred to new chapter 171 are not directly relevant to the purposes of chapter 4, which deals with the organization of the Department of Defense and the Office of the Secretary of Defense (OSD) and with the functions, powers, and duties of the Secretary of Defense and OSD officials. Creation of a new chapter for the reports and cost estimates for manpower, operations and maintenance, and weapons development and procurement schedules is a more appropriate arrangement. In addition, it would permit easier accommodation of any future growth in chapter 4.

Subsection (d) of section 110 of this bill would amend chapter 41 to delete section 718 dealing with the detail of officers to assist the Secretary of Defense. This section would be reenacted as subsection (c) in section 134 of title 10 dealing with the Office of the Secretary of Defense.

SEC. 111. JOINT CHIEFS OF STAFF

Section 111 of this bill would amend chapter 5 of title 10 dealing with the Joint Chiefs of Staff (JCS) to add four new sections instead of the three current sections. Because the amendments to chapter 5 are fairly large in number and scope, section 111 of this bill simply restates all of the sections of chapter 5 in their amended form, including a redesignation of section numbers to begin with section 151.

Section 111 has four subsections. Subsection (a) adds the four new sections of chapter 5. Subsection (b) contains three conforming amendments. The date for the first report by the JCS Chairman on the Services' roles and missions is specified in subsection (c). Subsection (d) establishes the effective date for the limitation on the number of personnel assigned to the Joint Staff.

Subsection (a) of section 111 would add the following new sections:

Sec. 151. Composition; functions
Sec. 152. Chairman
Sec. 153. Vice Chairman
Sec. 154. Joint Staff

Sec. 151. Composition; functions

Section 151 of title 10 would specify the composition of the Joint Chiefs of Staff, the relationship between the Chairman and the other JCS members, and the relationship of the Chairman and the other JCS members to senior civilian officials. Paragraph (1) of subsection (a) of section 151 would add the new position of Vice Chairman (established by section 153) to the current membership of the JCS.

Previous Joint Experience for JCS Members

Paragraph (2) of subsection (a) would require the members of the JCS to have served in at least one joint duty position for a substantial period of time before their assignment to the JCS. This requirement reflects the Committee's strong belief that previous joint experience would greatly help the Chairman, the Vice Chairman, and the Service Chiefs to carry out their JCS duties. At the same time, however, the Committee would preserve the President's flexibility in assigning these senior military officers by authorizing him to waive this requirement if he determines such action to be in the national interest.

Although the phrase "joint duty position" is used in this and other provisions, it is not defined in this bill. Instead, the Committee has decided to allow the Department of Defense to apply its own definition in implementing provisions of this bill. Nonetheless, if the Defense Department chooses to define "joint duty positions" broadly enough to encompass positions within one or more Services, the Committee believes that such "in-Service" positions should be very small in number and should carry responsibilities that usually go beyond single-Service interests. In other words, the Committee urges the Department to limit its definition of "joint duty positions" to those that entail truly joint responsibilities or perspectives.

JCS Chairman as Principal Military Adviser

Subsection (b) of section 151 would substitute the JCS Chairman for the Joint Chiefs of Staff as the principal military adviser to the

President, the National Security Council (NSC), and the Secretary of Defense. The purpose of this extremely important change is to enhance the value of joint professional military advice to senior civilian decision-makers. Existing law designates the corporate JCS as the principal military advisers; unfortunately, the assignment of this responsibility to the JCS, as a corporate body, has usually induced the members to harmonize their differences into a single position. Too often, the resulting advice does not offer clear, meaningful options on which the President, the NSC, and the Secretary of Defense can base their decisions. Therefore, these officials have often relied upon civilian staffs for the joint military advice that they should have received from the Joint Chiefs of Staff. In the judgment of the Committee, this has been one of the principal causes for the growth in civilian advisers to the Secretary of Defense and the diminution of the role of professional military advice in defense decision-making.

The President's Blue Ribbon Commission on Defense Management recognized this same problem concerning inadequate military advice in its "An Interim Report to the President":

> The President and the Secretary of Defense require military advice that better integrates the individual views of the nation's combatant commanders and Chiefs of the Services. Today, there is no one uniformed officer clearly responsible for providing such an integrated view, who can draw upon the best thinking of, and act as an effective spokesman for, our senior military leadership. The current authority of the Chairman of the Joint Chiefs of Staff is insufficient to enable him to perform effectively in this capacity. The Chairman's advisory relation to the President and the Secretary of Defense, the Chairman's mandate over the Joint Staff and the Organization of the Joint Chiefs of Staff, and the Chairman's place in the channel of communications between the Secretary of Defense and the Commanders-in-Chief of the Unified and Specified Commands (CINCs), all must be strengthened to this end.
> (page 9)

Subsection (b) would overcome this historical problem by replacing the corporate JCS with the Chairman as the principal source of military advice. The Committee expects the Chairman to develop and offer his own advice without any implied mandate to reconcile it with the views of the other JCS members. Subsection (e) of section 151 would require the Chairman to consult with the other JCS members and the unified and specified combatant commanders in carrying out his advisory duties. This requirement is intended to assist, and not to inhibit, the Chairman in his new role as the principal military adviser to the President, the NSC, and the Secretary of Defense.

JCS Members as Military Advisers

Subsection (c) of section 151 is a new provision that would recognize in statute the role of all members of the JCS as military advisers to the President, the National Security Council, and the Secretary of Defense. The subsection would provide that the JCS members are to be military advisers, "as specified in this section [section 151]".

Section 151 would specify only two ways in which members of the JCS other than the JCS Chairman may provide advice to the President, the NSC, or the Secretary of Defense. First, subsection (f) would authorize any JCS member to submit advice in disagreement or in addition to the advice provided by the Chairman to senior civilian officials. Second, subsection (h) would direct members of the JCS other than the Chairman to provide advice to the President, the NSC, or the Secretary of Defense whenever those civilian officials request it.

JCS as Military Staff to Secretary of Defense

Subsection (d) of section 151 is a new provision that would designate the Joint Chiefs of Staff, assisted by the Joint Staff, as the immediate military staff of the Secretary of Defense. This same designation is already made in Department of Defense Directive 5100.1 (May 1, 1985).

The Committee recommends that this administrative designation be placed in statute in order to emphasize the Committee's strong interest in having the Secretary of Defense rely upon the JCS for staff support on military matters. All too often, Secretaries of Defense have turned to the mostly civilian staff in the Office of the Secretary of Defense (OSD) for the kind of military advice that they should have received from the Joint Chiefs of Staff. With the revitalization of professional military advice that should take place as a result of this bill, the Committee believes that it is now appropriate to formalize in law the role of the JCS as the Secretary of Defense's military staff.

Consultative Duties of the Chairman

Subsection (e) of section 151 is a new provision that would require the JCS Chairman to take certain actions in the course of performing his duties. First, he is to convene regular meetings of the Joint Chiefs of Staff. Second, the Chairman must, unless impracticable, consult with and seek the advice of the other JCS members. Third, when appropriate, he is to consult with and seek the advice of the unified and specified combatant commanders.

The purpose of this new provision is to ensure that the Chairman has the benefit of the views of other senior military officers in carrying out his important duties. The Committee expects the Chairman to consult with the other JCS members and the combatant commanders, under the specified conditions, in performing all his duties, including those for which such consultation is not explicitly required by statute. However, the Committee also recognizes that the circumstances of certain situations may prevent the Chairman from consulting with the other JCS members and the unified and specified combatant commanders.

Dissenting Views of JCS Members

Subsection (f) of section 151 is a new provision that would authorize any member of the JCS to submit advice in disagreement or in addition to the advice provided by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice, the Chairman would be required to present that advice at the same time he presents his own advice to the President, the NSC, or the Secretary of Defense.

This subsection would create a very important mechanism that is designed to encourage diversity in the military advice provided to senior civilian decision-makers. Although the views of the Chairman, as the principal military adviser, should be clear and undiluted, the other members of the JCS would be free to submit dissenting or supplemental views. In addition, subsection (f) would not limit the number of JCS members who may join the Chairman in support of his advice; who may agree with the Chairman, but who may want to explain that point of view in a supplemental statement; or who may join together in submitting advice in disagreement with that of the Chairman. However the members of the JCS choose to express their views, the Chairman would be obligated to present their views when he presents his own advice to the President, the NSC, or the Secretary of Defense. Although the Chairman's views and any dissenting or additional views are to be presented at the same time, the Committee does not intend this requirement to result in delays in the military advice reaching senior civilian officials.

Through the operation of this mechanism, the Committee expects the President, the NCS, and the Secretary of Defense to receive military advice which will consist of the full range of views that may exist on a particular issue.

JCS Members' Advice Upon Request

Subsection (h) of section 151 is a new provision that would simply direct the members of the Joint Chiefs of Staff (other than the Chairman), in their capacity as military advisers, to provide advice on a particular matter in response to a request from the President, the NSC, or the Secretary of Defense. This provision describes the second mechanism by which JCS members other than the Chairman may directly advise these senior civilian decision-makers.

Sec. 152. Chairman

Section 152 of title 10 would specify the terms of appointment and service of the Chairman of the Joint Chiefs of Staff. More importantly, it would prescribe the highly important duties of the Nation's senior military officer.

The JCS Chairman occupies a unique but demanding position in that he is responsible for integrating the skills and resources of the four military Services into the best possible military advice for the President, the National Security Council, and the Secretary of Defense. Whether that advice takes the form of strategic plans, budget proposals, or joint training policies, it must embody the most effective balance of the Nation's land, sea, and air capabilities.

In the same way, the office of Chairman of the Joint Chiefs of Staff should represent the broadest possible range of military experience and expertise. The selection of officers to serve as JCS Chairman requires careful consideration to ensure that, over time, the Nation's most senior military position properly emphasizes the different capabilities of the Army, Navy, Marine Corps, and Air Force.

Term of Office of the Chairman

Paragraph (1) of subsection (a) would permit the President to reappoint the JCS Chairman for two additional 2-year terms, instead of only the one additional 2-year term now authorized by law, after the completion of the Chairman's initial 2-year term. Because the Chairman would be assigned responsibility for many new and important duties, the Committee believes that it is important to improve continuity and stability in this position. Therefore, the Committee recommends that the President be authorized to retain his principal military adviser for up to 6 years.

Paragraph (2) of subsection (a) would specify that the JCS Chairman's term, however long it has lasted, shall expire not later than 6 months after the beginning of a new Presidency. If the term that expired during this 6-month period was the Chairman's first or second term, he would be eligible to be reappointed to a second or third term, respectively. This requirement would not apply to a Chairman appointed or reappointed during the first 6 months of the term of a new President.

The purpose of this new requirement is to give a newly elected President an automatic opportunity to retain or release the military officer who will serve as his principal military adviser. Although the law specifies that the Chairman "serves at the pleasure of the President", practical considerations make it difficult for a President to actually dismiss a Chairman of the Joint Chiefs of Staff. Therefore, the Committee recommends that during the 6-month period in which a newly elected President was establishing his Administration, he should also enjoy more flexibility to select a new Chairman.

Paragraph (3) of subsection (a) would limit to 6 years the combined length of time that a military officer may serve as JCS Chairman and Vice Chairman. However, the President would be authorized to extend this limitation to 8 years if he determines such action is in the national interest. This new provision reflects the Committee's concern that no single officer serve for too long in the two most senior military positions. The Committee believes that the 6-year limitation (8 years with the Presidential waiver) would ensure stability and continuity, on the one hand, and introduce fresh experiences and perspectives, on the other hand.

Duties of the JCS Chairman

Subsection (d) of section 152 would prescribe the duties of the Chairman of the Joint Chiefs of Staff. He would perform these duties under the authority, direction, and control of the President and the Secretary of Defense.

Most of these duties are currently assigned to the corporate JCS. In effect, they represent the tasks entailed in being the principal military adviser to the President, the National Security Council, and the Secretary of Defense. Now that the Committee recommends that the Chairman assume this advisory responsibility, it is also appropriate that he undertake the associated tasks.

One of the current duties assigned to the JCS is to "prepare strategic plans and provide for the strategic direction of the armed forces" (clause (1) of section 141(c)). Clause (1) of subsection (d) would change this duty (as assigned to the JCS Chairman) in two ways. First, it would remove any suggestion that the JCS Chairman is to direct the armed forces as a military commander. The current provision, which requires the JCS to "provide for the strategic direction of the armed forces," implies directive authority. The new clause would, instead, specify that the JCS Chairman is responsible for preparing strategic plans that provide for the strategic direction of the armed forces.

Second, clause (1) would require that the strategic plans prepared by the Chairman include plans conforming with resource levels projected by the Secretary of Defense. The Joint Chiefs of Staff do not now prepare such fiscally constrained plans. The major JCS contribution to the strategic planning process, the Joint Strategic Planning Document (JSPD), generally defines the scope of the military threats facing the United States and the military forces required to respond to those threats.

Such unconstrained planning can play a useful role at the beginning of the strategic planning process by establishing benchmarks for comparing projected military capabilities with the force structure required to fulfill (at acceptable levels of risk) national security objectives and policy in light of projected threats. Such comparisons can help to identify deficiencies in the size, configuration, and capabilities of U.S. forces. More importantly, these comparisons can help to link better national security objectives and the level of resources allocated for national defense. Improved linkage would be useful given the current perception of an objectives-force mismatch. Clause (1) of subsection (d) would not preclude the Chairman from continuing to prepare unconstrained strategic plans.

Once objectives and resource levels have been set, however, subsequent strategic planning must take place in the context of fiscal constraints. The fiscally unconstrained nature of the JSPD relegates the JCS to a marginal role in the planning, programming, and budgeting process that eventually yields the annual Defense Department budget request. Thus, while the JSPD provides benefits at the start of the strategic planning process, it does not help to establish priorities and to make difficult resource choices. The President's Blue Ribbon Commission on Defense Management reached a similar conclusion in "An Interim Report to the President":

> Better long-range planning must be based on military advice of an order not now always available—fiscally constrained, forward looking, and fully integrated. (page 5)

The Committee strongly believes that the JCS Chairman is uniquely qualified to help set military priorities in a fiscally constrained planning document. For this reason, the Committee recommends that the Chairman be assigned this specific duty in law. It should be noted that this fiscally constrained planning document will be meaningful only if the Secretary of Defense provides realistic fiscal guidance to the Chairman. In this way, joint military strategic planning would guide the difficult choices that must be made among competing priorities in the programming and budgeting phases of the resource allocation process.

Clause (2) of subsection (d) is a new provision that would require the JCS Chairman to advise the Secretary of Defense on the extent to which the annual program recommendations and budget proposals of the Military Departments and other DoD components conform with strategic priorities and the combatant commanders' operational requirements. Although this duty is not now explicitly specified in the law, it is performed to a very limited extent by the corporate JCS in the form of the Joint Program Assessment Memorandum (JPAM).

In the JPAM, the JCS assess the risk that would be incurred by the forces contained in the program recommendations of the Military Departments. In addition, the Joint Program Assessment Memorandum should include the views of the JCS on the balance and capabilities of the recommended forces to execute the national military strategy.

Unfortunately, because of institutional weaknesses, the Joint Chiefs of Staff do not offer strong joint military advice on broad defense priorities in the JPAM. The Committee believes that senior civilian officials need just this kind of advice to make important defense decisions; therefore, the Committee seeks to remove the institutional impediments by specifying this duty in statute, by assigning it to the Chairman, and by recommending other structural changes.

Clause (3) of subsection (d) would highlight the review of major manpower requirements as a separate duty for the Chairman. Currently, this duty is found in conjunction with the review of major material requirements in existing clause (4) of subsection (c) of section 141.

Clause (4) of subsection (d) would require the Chairman to provide for the preparation and review of contingency or operations plans which conform to policy guidance from the President and the Secretary of Defense. This new clause would assign a duty to the Chairman that the JCS system, together with the unified and specified combatant commands, is currently performing even though the law does not explicitly require it. The importance of policy guidance from the President and the Secretary of Defense to contingency planning is addressed in the report's discussion of section 103 (Powers and Duties of the Secretary of Defense) of this bill. The Committee believes that DoD is not now giving adequate attention to the preparation and review of contingency plans. The Committee urges the Secretary of Defense and JCS Chairman to give increased emphasis to this important task.

Clause (5) of subsection (d) would amend an existing JCS duty to make it clear that the Chairman may not exercise executive authority by actually assigning logistic and mobility responsibilities himself; instead, he may only recommend their assignment.

Clause (6) of subsection (d) is a new statutory duty that would require the Chairman to advise the Secretary of Defense on critical deficiencies and strengths in force capabilities which are identified during the preparation and review of contingency plans. The Chairman would then be required to assess the effect of such deficiencies and strengths on meeting national security objectives and on strategic plans.

The purpose of this new provision is to establish a link that does not now exist between contingency and strategic planning. These two kinds of military planning are currently conducted largely in isolation from one another. Requiring the Chairman to link the two should create a useful cycle in which operational limitations identified during contingency planning would help to make strategic plans and the setting of national security objectives more realistic.

Clause (7) of subsection (d) would highlight the assessment of joint military requirements for defense acquisition programs as a separate duty for the Chairman. Currently, this duty is found in much briefer form in conjunction with the review of major personnel requirements in existing clause (4) of subsection (c) of section 141.

In light of the Chairman's unique role in planning and operational matters, the Committee carefully avoids requiring him to spend too much time and energy on the acquisition of defense systems. However, the Committee believes that it would be appropriate for the Chairman to assess acquisition requirements that are joint in nature, especially those affecting the interoperability of communications equipment.

Clause (8) of subsection (d) is a new provision that would direct the Chairman to develop doctrine for the joint employment of the armed forces.

Clause (9) of subsection (d) would change the current provision to clarify that the joint training policies formulated by the Chairman are subject to the approval of the Secretary of Defense.

Clause (10) of subsection (d) would change the current provision to clarify that the policies formulated by the Chairman for coordinating military education and training are subject to the approval of the Secretary of Defense. It would also emphasize the Chairman's special responsibility for coordinating the Services' education and training of officers who serve in joint duty positions.

Based upon its review of these duties, the Committee recommends the elimination of the duty of the corporate JCS to establish unified combatant commands in strategic areas (existing clause (3) of section 141(c)). Assigning this task to the JCS is an anomaly because another provision of the law (existing section 124; new section 162) assigns the same responsibility to the President. The Committee believes that establishing unified combatant commands is properly a responsibility of the President; therefore, it is not included among the duties transferred to the JCS Chairman.

Report on the Services' Roles and Missions

Subsection (e) of section 152 would require the Chairman to submit a periodic report to the Secretary of Defense on the assignment of functions or roles and missions to the four military Services. In this report, the Chairman is to recommend to the Secretary any changes in the allocation of roles and missions that are necessary to ensure the maximum effectiveness of the armed forces. With the first report due 1 year after the enactment of this bill into law, it must be prepared at least once every 3 years or at any time upon the request of the President.

The Committee is deeply concerned over the absence of a regular, comprehensive review of the Services' roles and missions by the Defense Department. While the Congress prescribed the general functions of each Service in the National Security Act of 1947, the fundamental document that assigns more detailed roles and missions is the Key West Agreement of 1948. Since that agreement was negotiated almost 40 years ago by Secretary of Defense Forrestal and the Service Chiefs of Staff, it has been clarified several times, most notably in the 1984 Army-Air Force Memorandum on a Joint Force Development Process. However, the Department of Defense has not undertaken a periodic, wide-ranging examination of the Key West Agreement in light of the tremendous changes in technology, strategy, tactics, and the threats faced by the United States that have occurred since 1948.

The reporting requirement that would be established by subsection (e) is intended to force the Defense Department to thoroughly and regularly review the allocation of the Services' roles and missions.

Sec. 153. Vice Chairman

Section 153 would create the new position of Vice Chairman of the Joint Chiefs of Staff.

Appointment of the Vice Chairman

Paragraph (1) of subsection (a) of section 153 would establish the new position of Vice Chairman of the Joint Chiefs of Staff. It would specify that he would be a regular military officer appointed by the President with the advice and consent of the Senate (the same terms of appointment as those for the JCS Chairman).

Service Membership of the Chairman and Vice Chairman

Paragraph (2) of subsection (a) would specify that the JCS Chairman and Vice Chairman may not be members of the same armed force. As defined in section 101 of title 10, United States Code, "armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard. Occasionally, the Chairman and Vice Chairman may be members of the same armed force because one has just assumed his position while the other is about to leave his position. In anticipation of such a situation, the Secretary of Defense would be authorized to waive the restriction on different Service membership for a limited period of time in order to effect the orderly transition of officers appointed to serve as Chairman and Vice Chairman. The Committee chose not to specify the length of time for which the Secretary of Defense could waive this provision in order to give the Secretary maximum flexibility. However, the Committee does not intend that the period shall extend beyond that limited period strictly necessary for an orderly transition.

The Committee believes that the selection of military officers to serve as Chairman or Vice Chairman requires careful consideration of a number of qualifications to ensure the broadest possible range of combined military experience and expertise in these two positions. Included in such qualifications should be the knowledge of various aspects of warfare, Service assignments, previous joint duty assignments, and military education and training.

Term of Office of the Vice Chairman

Paragraph (3) of subsection (a) would specify that the Vice Chairman serves at the pleasure of the President for an initial term of 2 years. The Vice Chairman may be reappointed by the President for two additional 2-year terms. These terms of office are the same as those established for the JCS Chairman.

Duties of the Vice Chairman

Paragraph (1) of section 153(b) would simply provide that the Vice Chairman exercises whatever duties are delegated to him by the Chairman with the approval of the Secretary of Defense.

One of the Committee's major purposes in creating the new position of Vice Chairman of the Joint Chiefs of Staff is to assist the Chairman in carrying out his considerable responsibilities. The Chairman is already charged with a wide range of demanding duties; the changes that would be made by this bill, although necessary, will make his heavy workload even more burdensome. On the whole, however, the Chairman's workload should remain manageable if he is given a deputy with the authority to act on his behalf and with the official standing to carry out his guidance.

With this concern in mind, the Committee carefully avoids limiting the Chairman in how he may use the Vice Chairman to assist him. Instead, paragraph (1) of section 153(b) would grant flexibility to the Chairman in deciding the duties of the Vice Chairman. Consistent with the Committee's care to preserve the Secretary of Defense's authority, however, the provision would also specifically require the Secretary to approve the duties delegated to the Vice Chairman.

Vice Chairman's Rank and Role as Acting Chairman

Two separate provisions reflect another major reason for the Committee's strong interest in the establishment of a Vice Chairman. Because the Chairman must spend a fair amount of time visiting allies and U.S. military forces, a senior officer with a joint perspective must remain in Washington, D.C. always prepared to act for the Chairman in his absence. While it recognizes that the current system of rotating the acting Chairmanship every 3 months among the Service Chiefs of Staff is an improvement over the previous system, the Committee concludes that assigning this duty to the Vice Chairman would be a more effective arrangement.

Paragraph (2) of section 153(b) would provide that the Vice Chairman, unless otherwise directed by the President or Secretary of Defense, is to act for the Chairman when there is a vacancy in the office of Chairman or in the absence or disability of the Chairman. Closely related to this responsibility is the provision (subsection (d) of section 153) which would specify that the Vice Chairman is to hold the grade of a 4-star general or admiral and is to outrank all other military officers except the Chairman.

After a lengthy and thorough debate, the Committee concludes that the new Vice Chairman of the JCS should act for the Chairman in his absence and should be second in order of rank after the

Chairman. Several reasons convinced the Committee that the Vice Chairman must be given this authority and standing if he is to play a meaningful role in strengthening the JCS institution.

First, with the authority and standing specified in this bill, the Vice Chairman would improve continuity and stability in the exercise of the Chairman's responsibilities. Unlike the Service Chiefs, the Vice Chairman would be immersed full-time in the same operational work of the Defense Department that preoccupies the Chairman. On the other hand, most of the time and energy of the Service Chiefs are understandably dedicated to the administrative work of the Department: managing the tremendous resources of the military Services. During the 3-month period in which he is designated to act for the Chairman in his absence, a Service Chief does his best to familiarize himself with key issues and events. However, he just cannot become as knowledgeable as the Vice Chairman, who would be concerned with these issues and events on a continuous basis.

Further complicating a Service Chief's ability to rapidly assume the Chairman's duties is his more limited familiarity with the personnel and procedures of the Joint Staff. In the course of carrying out his normal JCS responsibilities, a Service Chief tends to rely heavily on his own staff for assistance. However, it is the Joint Staff, and not his Service staff, with which he would have to work as acting Chairman. Again, the Vice Chairman would already enjoy a well-established relationship with the multi-Service staff that supports the Chairman.

A final factor affecting continuity and stability in the role of acting Chairman is the extremely heavy burden that a Service Chief must assume when he is serving as acting Chairman. In that difficult position, a Service Chief must essentially perform two full-time jobs that separately already consume the time and energy of highly-qualified, dynamic individuals.

A second reason for the Vice Chairman recommended by the Committee is his ability to expedite the constant flow of JCS business in the absence of the Chairman. Current and former unified combatant commanders and Directors of the Joint Staff have told the Committee of their deep reluctance to raise issues with the JCS in the Chairman's absence. They are concerned that without the unique broad and joint perspective and leadership of the Chairman, matters may not receive the full and objective consideration that they deserve. Such issues do not include only the major policy questions for which the Chairman should be present; they also include personnel matters and other administrative problems that directly affect the prerogatives of the military Services.

Third, the Committee believes that the acting Chairman should fully understand the capabilities of the unified and specified combatant commands. The Chairman of the Joint Chiefs of Staff serves as the crucial link between the unified and specified combatant commanders and the Secretary of Defense, especially in crisis situations. Therefore, the Chairman and the officer acting in his absence should be familiar with the unified and specified combatant commands through extensive travel among them and daily exposure to their questions, concerns, and requests. Only a Vice Chairman, undistracted by the burden of administering a military Service, can substitute for the Chairman in this important role.

The importance of the Vice Chairman to the unified and specified combatant commanders has been strongly emphasized by several current and former unified and specified combatant commanders and deputy combatant commanders. The Committee has been especially impressed by the comments of commanders who served in unified combatant commands *after* the current rotating acting Chairmanship system was initiated in 1982. These respected officers—General Bernard Rogers, USA (the current Commander in Chief of the U.S. European Command); Admiral Wesley McDonald, USN (Ret.) (the former Commander in Chief of the U.S. Atlantic Command); General Paul Gorman, USA (Ret.) (the former Commander in Chief of the U.S. Southern Command); and General William Smith, USAF (Ret.) (the former Deputy Commander in Chief of the U.S. European Command)—have made it clear to the Committee that the rotating acting Chairmanship system still does not fill the void created by an absent Chairman as well as the Vice Chairman would.

These arguments have convinced the Committee that the most important officer in the armed forces—the *only* high-ranking civilian or military official in the U.S. government without a deputy—should finally be given a deputy authorized to act in his absence. At the same time, however, the Committee recognizes that the role of acting Chairman is sufficiently important to warrant granting some flexibility to the President and the Secretary of Defense in determining how it should be filled. Therefore, paragraph (2) of section 153(b) would authorize the President or the Secretary of Defense to direct that the Vice Chairman should not act for the Chairman in his absence. Nonetheless, the Committee strongly believes that this important responsibility should be assigned to the Vice Chairman.

The Vice Chairman's Attendance at JCS Meetings

Subsection (c) of section 153 would authorize the Vice Chairman to attend all meetings of the Joint Chiefs of Staff but would prohibit him from voting except when acting as Chairman.

The Vice Chairman's Command Authority

The part of subsection (d) of section 153 which would specify the rank of the Vice Chairman was addressed above in the discussion of his rank and role as acting Chairman. Another part of section 153(d) would prohibit the Vice Chairman from exercising military command over the Joint Chiefs of Staff or any of the armed forces. This prohibition would be identical to that which applies to the JCS Chairman (section 152(c)).

Sec. 154. Joint Staff

Section 154 would specify the functions, composition, and management of the Joint Staff.

Functions of the Joint Staff

Paragraph (1) of subsection (a) of section 154 would make three significant changes to current provisions concerning the Joint

Staff. First, the Joint Staff would be placed specifically under the authority of the JCS Chairman rather than under the corporate Joint Chiefs of Staff. This change is the first of several similar changes in section 154 that are intended to ensure the clear management authority of the Chairman over the Joint Staff. The President's Blue Ribbon Commission on Defense Management recommended the same change in the following terms:

> Current law should be changed to place the Joint Staff and the Organization of the Joint Chiefs of Staff under the exclusive direction of the Chairman, to perform such duties as he prescribes to support the JCS and to respond to the Secretary of Defense. (page 11)

The Committee believes that the Chairman must have the strong support of the Joint Staff if he is to carry out effectively his new duty as principal military adviser to the President, the National Security Council, and the Secretary of Defense. Currently, responsibility for the management and operation of the Joint Staff is diffused. Some matters may be administered exclusively by the Chairman (for example, selection of Joint Staff officers); other matters may be prescribed by either the Chairman or the JCS (for example, the duties of the Joint Staff); and yet other matters are subject to the direction of the corporate JCS (for example, the Chairman's management of the Joint Staff). Beginning in paragraph (1) of section 154(a), the Committee seeks to consolidate all these and other aspects of management authority in the Chairman.

The second significant change that would be made by paragraph (1) of section 154(a) is the specification that the Joint Staff shall assist the Chairman and the other JCS members (rather than the corporate JCS) in carrying out their responsibilities. Again, however, the Joint Staff is to provide this assistance subject to the authority, direction, and control of the Chairman.

This provision is intended to ensure that the members of the JCS other than the Chairman will be able to use the Joint Staff for assistance in performing their JCS duties. In fact, the Committee encourages the Service Chiefs to rely less on their Service staffs and more on the Joint Staff for support on joint matters. However, the Chairman must be able to manage the demands on the Joint Staff so that he can control the workload of his staff.

Third, paragraph (1) of section 154(a) would remove the statutory cap of 400 officers on the size of the Joint Staff. This arbitrary and out-of-date limitation would be replaced by a more comprehensive restriction in subsection (f) of section 154. The proposed restriction is described in the discussion of subsection (f).

Selection of a Joint Staff Director

Subsection (b) of section 154 would specify that the JCS Chairman, after consultation with the other JCS members and with the approval of the Secretary of Defense, may select a Director of the Joint Staff.

Two changes to current law would be made by this subsection. First, the Chairman would be authorized to select a Director *after* consultation with other JCS members rather than *in* consultation with other JCS members. The purpose of this change is to make it clear that the selection of a Director is to be made exclusively by the Chairman and not by the corporate JCS.

Second, the subsection would grant complete flexibility to the Chairman in deciding whether or not to select a Director. In broad terms, the Committee intends that the Chairman enjoy the management flexibility to organize the Joint Staff as he sees fit (within the constraints of the law and subject to the authority, direction, and control of the Secretary of Defense). In particular, the Chairman may not choose to select a Director or may choose to select one or more Directors of the Joint Staff. However many Joint Staff Directors the Chairman selects, he would be required to first consult with the other JCS members and to gain the approval of the Secretary of Defense.

Management of the Joint Staff

Subsection (c) of section 154 would specify that the JCS Chairman alone would manage the Joint Staff and its Director. The subsection would further provide that only the Chairman may prescribe the duties and staffing procedures of the Joint Staff.

The purpose of the changes made by this subsection is the same as for those made earlier: to clarify and consolidate the Chairman's authority to manage all aspects of the Joint Staff's operation. In particular, the Committee intends to authorize the Chairman to establish whatever staffing procedures would best enable the Joint Staff to assist most effectively the Chairman and the other JCS members in carrying out their responsibilities. The Committee believes that the staffing methods currently used to prepare issues for JCS consideration should be streamlined by reducing the excessive involvement of the four Service staffs in the work of the Joint Staff. The result would be more objective and timely staff assistance for the Joint Chiefs of Staff.

Joint Staff Support for JCS Members

Subsection (d) of section 154 would clarify that the Joint Staff supports the Chairman and the other JCS members (instead of the corporate JCS) in discharging their assigned responsibilities. This conforming change is similar to the new language in paragraph (1) of section 154(a).

Extension of Joint Staff Tours of Duty

Subsection (e) of section 154 would authorize the Secretary of Defense to extend the tours of duty of Joint Staff officers beyond the statutory limit of 4 years.

In the Department of Defense Authorization Act, 1985 (Public Law 98-525), the Congress relaxed statutory restrictions on the tenure and reassignment of officers serving on the Joint Staff. In reducing from 3 to 2 years the length of time in which an officer may not be reassigned to the Joint Staff, the Congress authorized the Secretary of Defense to waive this restriction. However, it did not provide similar flexibility to the Secretary to extend the tours of duty of Joint Staff officers.

Occasionally, it would improve continuity and stability in an important function of the Joint Staff if the tour of duty of an officer could be extended beyond 4 years. Therefore, the Committee believes that it is appropriate to provide this waiver authority to the Secretary of Defense.

Limitation on Size of Joint Staff

Subsection (f) of section 154 would impose a limitation of 1,617 (the current personnel level) on the number of civilian and military personnel serving on the Joint Staff. It would define the Joint Staff to include all civilian and military personnel assigned to assist the Chairman, the Vice Chairman, and the Service Chiefs in carrying out their responsibilities as members of the JCS. The subsection would further specify that civilian and military personnel assigned to a Military Department are not to be included within the definition of the Joint Staff.

Currently, section 143(a)(1) limits the number of officers on the Joint Staff to 400. However, this restriction has long been circumvented by the administrative creation of the larger, umbrella Organization of the Joint Chiefs of Staff (OJCS). In addition to the Joint Staff, the OJCS consists of the JCS itself, the Office of the Chairman, and several supporting agencies and boards. Because the size of the OJCS is not limited by any statutory restriction, the JCS have used its adjustable personnel framework to alleviate the management problems caused by the limitation of 400 officers on the size of the Joint Staff.

The Committee believes that this artificial constraint on the Joint Staff is too severe in inhibiting the flexibility of the Chairman to organize and operate his staff. Therefore, the limitation of 400 officers that applies only to the Joint Staff would be replaced with a much broader limitation of 1,617 civilian and military personnel that would, in effect, apply to the entire OJCS. At the same time, the Joint Staff would be redefined to encompass all the personnel and elements that now comprise the Organization of the Joint Chiefs of Staff. The new limitation on the personnel strength of the Joint Staff would be effective after September 30, 1988.

The Committee has exempted the Joint Staff from the personnel reductions it recommends in almost all other elements of the Defense Department. By allowing the Joint Staff to remain at its current personnel level, the Committee recognizes that the Chairman and the other JCS members need a substantial staff to assist them in carrying out their important duties. Nonetheless, in order to assess this matter again in the future, the Committee expects the Chairman of the Joint Chiefs of Staff to justify in writing the size of the Joint Staff (as redefined) within 6 months of this bill's enactment into law. In the meantime, the Committee strongly encourages the Chairman to streamline the organization and operation of the Joint Staff (as redefined) so that fewer personnel are needed to perform its functions.

Conforming Amendments

Subsection (b) of section 111 of this bill would amend paragraph (3) of section 525(b) of title 10 to exempt the general or admiral who serves as Vice Chairman of the JCS from the statutory limits on the number of generals and admirals in the four Services. The JCS Chairman is already exempt from these limits.

Subsection (b) of section 111 of this bill would amend section 743 of title 10 to include the Commandant of the Marine Corps. Section 743 specifies that the Service Chiefs of Staff are to rank among themselves according to the dates of their appointment to their positions. The section would also be amended to add the Vice Chairman to the Chairman as the only two officers who outrank the Service Chiefs.

SEC. 112. COMBATANT COMMANDS

Section 112 would amend part I of subtitle A of title 10, United States Code, to add a new chapter 6 dealing with the Combatant Commands which control operations whenever military forces are employed. The current statute dealing with the unified and specified combatant commands is section 124 of chapter 3 (General Powers) of title 10 which would be repealed by section 112 of this bill. The Committee recommends the addition of a new chapter to title 10 on the combatant commands in order to give more appropriate statutory emphasis to the vast responsibilities of the warfighting commands.

A unified combatant command is composed of U.S. combatant forces from two or more Military Departments, has a broad and continuing mission, and is normally organized on a geographic basis. A specified combatant command is composed of U.S. combatant forces normally from a single Military Department, has a broad and continuing mission, and is organized on a functional basis. Presently, there are seven unified combatant commands and three specified combatant commands:

Unified Commands

U.S. Atlantic Command (Norfolk, Virginia)
U.S. Central Command (MacDill Air Force Base, Florida)
U.S. European Command (Stuttgart, Germany)
U.S. Pacific Command (Camp H.M. Smith, Hawaii)
U.S. Readiness Command (MacDill Air Force Base, Florida)
U.S. Southern Command (Quarry Heights, Panama)
U.S. Space Command (Peterson Air Force Base, Colorado)

Specified Commands

Aerospace Defense Command (Peterson Air Force Base, Colorado)
Military Airlift Command (Scott Air Force Base, Illinois)
Strategic Air Command (Offutt Air Force Base, Nebraska)

Section 112 of this bill has two subsections. Subsection (a) adds chapter 6 with its five sections to title 10. Subsection (b) provides technical amendments including the repeal of section 124 of title 10. The sections of chapter 6 are:

Sec. 161. Definitions
Sec. 162. Combatant commands: establishment; composition; functions
Sec. 163. Operational chain of command
Sec. 164. Commanders of combatant commands: assignment; powers and duties
Sec. 165. Combatant commands: administration and support

This new chapter, if enacted, would establish the basic framework for DoD administrative regulations dealing with the combatant commands. In this regard, the Committee is particularly concerned about the ongoing revision by the Joint Chiefs of Staff of JCS Publication 2, entitled "Unified Action Armed Forces". JCS Publication 2 sets forth principles, doctrines, and functions governing the activities and performance of U.S. military forces when units from two or more Services are acting together. The Committee expects this revision to conform fully with the provisions and the spirit of chapter 6 and other relevant provisions of this bill.

As part of its effort to give increased emphasis to the combatant commands, the Committee plans to ask the unified and specified combatant commanders to testify before the Committee each year. While this bill would expand consideration of the operational requirements of the combatant commands within DoD, the Committee believes that it is also important that a similar effort be made as part of the congressional authorization and appropriations processes.

Although this bill comprehensively addresses the combatant commands, it does not address an increasingly important combatant component: special operations forces. Inaction by the Committee does not suggest a conclusion that there are no serious problems regarding special operations forces. Based upon available evidence, the Committee sees the same problems in special operations that have hampered the operational effectiveness of the unified combatant commands. Beyond operational deficiencies, the Committee is concerned about shortcomings in planning and resource allocation for special operations. In particular, the Committee is concerned because (1) the threat to U.S. interests from the lower end of the conflict spectrum is becoming more serious; (2) the capabilities needed to respond to these threats are not among the traditional ones of the Services; (3) the Services have a tendency in force planning to focus on high intensity conflicts upon which their resource programs are principally justified; (4) there is a need to coordinate the activities of the Services as they seek to develop required capabilities in order to avoid unnecessary duplication; and (5) there is a need for innovative thinking and new approaches to these threats.

Sec. 162. Combatant commands: establishment; composition; functions

Subsection (a) of section 162 of new chapter 6 would retain the authority currently provided in subsection (a) of section 124 for the President to establish combatant commands and to prescribe their force structure. It would, however, make three changes. First, subsection (a) would provide that the President is to have the advice and assistance of the Chairman of the Joint Chiefs of Staff in carrying out his authority to establish combatant commands, to prescribe their force structure, and to carry out the new duties added by clauses (3) and (4). Currently, the President is to have the advice and assistance of the Joint Chiefs of Staff. Specifying that the JCS Chairman will advise and assist the President is consistent with the designation of the JCS Chairman as the principal military adviser to the President, the NSC, and the Secretary of Defense.

The second change that would be provided by subsection (a) of section 162 is a requirement added by clause (3) that the President review periodically, but not less often than every 2 years, the missions, tasks, responsibilities (including geographic boundaries), and force structure of each combatant command and make whatever revisions are necessary to respond to changing conditions. This requirement is designed to ensure frequent, high-level attention to the Unified Command Plan (UCP). Necessary revisions to the UCP have often experienced prolonged delays, primarily due to their controversial nature and the institutional deficiencies of the JCS system.

Subsection (a) of section 162 would in clause (4) make a third change to require the President to notify Congress, except during time of hostilities, at least 60 days before establishing a new combatant command or before significantly revising the missions, tasks, responsibilities, or force structure of an existing combatant command. Given the importance of the combatant commands, this provision would require the President to keep the Congress informed on their status.

Assignment and Transfer of Combatant Forces

Subsection (b) of section 162 would specify authority for the assignment of combatant forces to, and their transfer from, combatant commands. Subsection (b) would retain, but clarify, the basic authorities now provided in subsection (b) of the repealed section 124. Reflecting the division of operational and administrative responsibilities in the Department of Defense prescribed by the 1958 Amendments to the National Security Act of 1947, paragraph (1) of subsection (b) of section 162 would require all combatant forces of the Military Departments to be assigned to combatant commands, unless otherwise directed by the Secretary of Defense. The Committee believes that all combatant forces should be assigned to the commands responsible for military operations. Such a requirement would enhance preparation for combat and the formation of effective, integrated fighting forces. The waiver authority granted to the Secretary of Defense is based upon the potential need to form a special task force or to separate certain combatant forces from a combatant command for special training, equipment maintenance or overhaul, or other purposes.

Paragraph (2) of subsection (b) would continue to specify that the Secretaries of the Military Departments are responsible for assigning combatant forces to combatant commands. However, it would add that such assignments are (1) to be consistent with the force structure prescribed by the President for each combatant command and (2) subject to approval by the Secretary of Defense. Assigning combatant forces to combatant commands was continued as a responsibility for the Secretaries of the Military Departments because of their greater familiarity with the status and capabilities of particular Service units.

Paragraph (3) of subsection (b) would continue the current authority for only the Secretary of Defense to transfer combatant forces from the combatant commands to which they are assigned and only under procedures prescribed by the Secretary of Defense and approved by the President.

Subsection (c) of section 162 would slightly modify subsection (c)(1) of the repealed section 124, but would continue to specify that combatant commands are responsible to the President and to the Secretary of Defense for the performance of such military missions as may be assigned to them by the Secretary of Defense with the approval of the President.

Sec. 163. Operational Chain of Command

Section 163 deals with the operational chain of command. Subsection (a) would specify that, unless otherwise directed by the President, the chain of command for the operational direction of the combatant commands runs from President to the Secretary of Defense to the commanders of unified and specified combatant commands. Without infringing upon the President's authority as Commander in Chief to direct otherwise, the provision would specify the normal chain of command that the Congress finds to be preferable in terms of meeting national security needs and preserving civilian control of the military.

Subsection (b) of section 163 would authorize the President or the Secretary of Defense to direct the channel of command communications to run from the Secretary of Defense to the commanders of the unified and specified combatant commands through the JCS Chairman. Should the JCS Chairman be placed in the channel of command communications, the orders that come from the Chairman must be initiated by, authorized by, and be in the name of the President or Secretary of Defense. The President's Blue Ribbon Commission on Defense Management made a similar recommendation regarding a role for the JCS Chairman in the channel of command communications:

> The Secretary of Defense should direct that the commands to and reports by the Commanders-in-Chief of the Unified and Specified Commands (CINCs) should be channeled through the Chairman. * * * (page 11)

The Committee has specifically determined that the JCS Chairman should not be placed in the operational chain of command. Moreover, the Committee directs that placing the JCS Chairman in the channel of command communications shall not in any way grant him command authority. The Committee's direction in this regard is consistent with the second sentence of subsection (c) of the current section 142 of title 10 (which would be continued in subsection (c) of section 152) which provides: "he [the JCS Chairman] may not exercise military command over the Joint Chiefs of Staff or any of the armed forces." The Committee believes that the role of the JCS Chairman regarding operational matters must be carefully prescribed in order to ensure the absolute and unquestioned integrity of the fundamental principle of civilian control of the military.

Subsection (c) of section 163 would authorize, unless otherwise directed by the President or the Secretary of Defense, a commander of a unified or specified combatant command to prescribe the chain of command within his command and to organize his command. The authority to organize the command does not extend to altering the internal organization of units assigned to the command; such internal organization shall continue to be the responsibility of the Military Departments. The Committee believes that the combatant commanders must have the flexibility provided by this authority to organize their commands if they are to effectively prepare for and carry out assigned missions. The President's Blue Ribbon Commission on Defense Management has also recommended this authority for combatant commanders:

> Subject to the review and approval of the Secretary of Defense, Unified Commanders should be given broader authority to structure subordinate commands, joint task forces, and support activities in a way that best supports their missions and results in a significant reduction in the size and numbers of military headquarters. (page 11)

Duties for the JCS Chairman

Subsection (d) of section 163 would prescribe two duties for the JCS Chairman with respect to the combatant commands. Paragraph (1) would authorize the Secretary of Defense to assign responsibility to the JCS Chairman for overseeing the activities of the combatant commands. Such an assignment to the JCS Chairman, however, would not (1) confer any command authority, or (2) alter the direct responsibility of the combatant commanders to the Secretary of Defense. Because the Secretary's span of control is great and the time that he can devote to supervisory activities is limited, the Committee believes that the JCS Chairman could usefully assist the Secretary in overseeing the combatant commands.

Paragraph (2) would clarify the provision of law, currently in subsection (c)(2) of the repealed section 124, that designates the JCS Chairman as the spokesman for the combatant commanders on their operational requirements. Because of the geographic separation of the combatant commanders from the Washington Headquarters of DoD, it is difficult for them to provide a continuous representation of their positions on policy, planning, and resource allocation issues. In the physical absence from Washington of the combatant commanders, the JCS Chairman is tasked with the responsibility of serving as their spokesman. While the Committee recommends that this responsibility be assigned to the JCS Chairman, it does not intend to preclude the Chairman from assigning this specific responsibility to the JCS Vice Chairman as the President's Blue Ribbon Commission on Defense Management has recommended:

> The Vice Chairman should assist the Chairman by representing the interests of the CINCs [CINCs is an abbreviation for Commanders in Chief of the unified and specified combatant commands] * * * (page 11)

Sec. 164. Commanders of combatant commands: assignment; powers and duties

Section 164 of Chapter 6 would prescribe the assignment and powers and duties of the commanders of the unified and specified combatant commands. In particular, the Committee recommends in this section that the powers and command authority of the combatant commanders be significantly expanded and strengthened. These commanders currently have insufficient power and authority to effectively carry out their vast responsibilities. One of the principal purposes of this bill is to correct this serious deficiency. The President's Blue Ribbon Commission on Defense Managment reached a similar conclusion:

> The measure of command now accorded the nation's combatant commanders is not always sufficient for our forces to perform with high confidence of success and coherence of effort. Unified Commanders require broader authority than "operational command," as now understood and practiced, in order to meet the heavy responsibilities that their missions place on them. (page 10)

Subsection (a) of section 164 would specify that the President may assign to serve as unified commanders only officers who have served in one or more joint duty positions for a substantial period of time. Subsection (a) would, however, authorize the President to waive this requirement if he determines such action is necessary in the national interest. This requirement is based upon the Committee's belief that the unified combatant commanders should be prepared by previous joint experience for their responsibilities.

Subsection (b) of section 164 would clearly specify that the combatant commanders are directly responsible to the Secretary of Defense. This specification is designed to eliminate lingering confusion over this relationship.

Subsection (c) of section 164 would prescribe the basic responsibilities of a combatant commander. These responsibilities are: (1) to maintain the security of his command and protect the United States, its possessions, and bases against attack or hostile incursion; (2) to carry out assigned missions, tasks, and responsibilities; and (3) to assign tasks to, and direct coordination among, his subordinate commanders so as to ensure unity of effort in the accomplishment of the missions assigned to his command. These responsibilities are included among the primary responsibilities of combatant commanders in JCS Publication 2, "Unified Action Armed Forces."

Command Authority of Combatant Commanders

Subsection (d) would give the combatant commanders full operational command over all assigned forces as currently provided in subsection (b) of repealed section 124. However, unlike the current provision, subsection (d) would define full operational command. Full operational command would be specified as including (1) all aspects of military operations and joint training and (2) authority as assigned by the Secretary of Defense for coordination and approval of those aspects of administration and support, including planning for wartime logistics, necessary for the accomplishment of the missions assigned to the command. This specification of full operational command would substantially expand the command authority currently exercised by the unified and specified combatant commanders. Currently, the combatant commanders do not have authority over joint training or over any aspect of support and administration. The Committee believes that the expanded command authority is required for combatant commanders to carry out effectively their assigned missions.

The relationships of the combatant commanders and their subordinate commanders would be specified by subsection (e) of section 164. Paragraph (1) would make clear that subordinate commanders are under the authority, direction, and control of, and are responsible to, the combatant commander on all matters for which the combatant commander has been assigned full operational command. Paragraph (2) would specify that the combatant commander may establish procedures for the communications of his subordinate commanders with other DoD elements on any matter for which he has been assigned full operational command. Paragraph (3) would provide that the combatant commander may direct that he be advised of all other communications by his subordinate commanders. Each one of these paragraphs is intended to strengthen the authority of the combatant commander.

Personnel Authority of Combatant Commanders

Subsection (f) of section 164 would provide the combatant commander with personnel authority over his key command personnel—those commanders who are directly subordinated to him and through whom he must work to accomplish his missions. Directly subordinated commanders would include Service component commanders, subordinate unified commanders, and other commanders who report directly to the combatant commander. Paragraph (1) would specify that military officers shall be selected for such positions only with the concurrence of the combatant commander and only in accordance with procedures established by the Secretary of Defense. Paragraph (2) would require the combatant commander to evaluate the performance of duty of his directly subordinated commanders and to submit the evaluation to the Secretary of the Military Department of which the commander being evaluated is a member.

In essence, subsection (f) would give the combatant commander authority over two aspects of personnel management: (1) selection of key subordinate commanders and (2) their motivation. The combatant commander's concurrence in selection is designed to ensure that the combatant commander will have subordinate commanders in whom he has confidence and with whom he believes that a good working relationship can be established. It would also clearly establish that the subordinate works for the combatant commander because he had the final say in the subordinate's selection. The motivation of subordinate commanders would be affected by the combatant commander's evaluation of their performance of duty. This would provide the combatant commander with power to reward and punish. The Committee's intent is to make each subordinate commander aware that his prospects for advancement will be influenced by how his combatant commander evaluates his performance of duty and his responsiveness to operational direction from the combatant commander.

Subsection (g) of section 164 relates to the joint staff of each unified combatant command. Paragraph (1) would require each unified combatant command to have a joint staff with officers in key positions of responsibility from each Military Department having forces assigned to the command. The requirement for officers from each Military Department with assigned forces is designed to ensure that the combatant commander has staff support that can provide a comprehensive understanding of the tactics, techniques, capabilities, needs, and limitations of the forces from each Service. Paragraph (2) would provide that all joint staff officers in the grade of colonel or Navy captain and above are selected only with the concurrence of the unified combatant commander and only in accordance with procedures established by the Secretary of Defense. The Committee has specified only the unified combatant commander's authority to select these members of his joint staff. Through the normal evaluation system, the combatant commander already has the necessary authority to motivate those joint staff members who report directly to him.

Subsection (h) of section 164 would provide authority for combatant commanders to suspend from duty and recommend the reassignment of any officer assigned to their commands. While this power is inherent in command authority, the Committee believes that it would be useful to state clearly that it applies to combatant commanders with officers from more than one Service assigned to their commands.

Sec. 165. Combatant commands: administration and support

Section 165 relates to the administration and support of forces assigned to combatant commands. Subsection (a) would assign to the Secretary of Defense the responsibility of providing for the administration and support of forces assigned to each combatant command. As the operational and administrative chains of command are joined only at the level of the Secretary of Defense, it is appropriate that he have clear authority to provide for administrative support of the operational dimension of DoD.

Subsection (b) of section 165 would continue the current responsibility of the Secretaries of the Military Departments to provide administration and support for the forces that they have assigned to the combatant commands. This responsibility is to be exercised, however, in a manner consistent with the authority assigned by the Secretary of Defense to the combatant commanders for coordination and approval of certain aspects of administration and support.

Subsection (c) of section 165 would provide a new authority to the Secretary of Defense. It would authorize the Secretary to assign the responsibility or any part of the responsibility for the administration and support of forces assigned to the combatant commands to other DoD components. This authority would be provided primarily to permit the Secretary of Defense to assign such responsibility to Defense Agencies. As the Defense Agencies provide for the performance of a supply or service activity which is common to more than one Military Department, the Secretary of Defense may determine that such support could be more effectively, economically, or efficiently provided directly to the combatant commands.

SEC. 113. REPEAL OF PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS

Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747) prohibits the consolidation of any of the functions being performed by the Military Traffic Management Command of the Army, the Military Sealift Command of the Navy, or the Military Airlift Command of the Air Force. This prohibition was enacted into law to block the Defense Department's plans to consolidate the Military Traffic Management Command and the Military Sealift Command into a new unified command to be designated the Military Transportation Command.

The Committee believes that this prohibition is an inappropriate and undesirable congressional restriction on the Secretary of Defense's authority to provide more effective, efficient, and economical administration and operation. Accordingly, the Committee recommends that this prohibition be repealed. Repeal of this prohibition was also recommended by the President's Blue Ribbon Commission on Defense Management. In its "An Interim Report to the President," the Commission recommended:

> The Secretary of Defense should establish a single unified command to integrate global air, land, and sea transportation, and should have flexibility to structure this organization as he sees fit. Legislation prohibiting such a command should be repealed. (page 12)

Section 113 of this bill would repeal section 1110 of the Department of Defense Authorization Act, 1983.

SEC. 114. REPEAL OF PROHIBITION AGAINST ALTERING THE COMMAND STRUCTURE FOR MILITARY FORCES IN ALASKA

Section 8106 of the Department of Defense Appropriations Act, 1986, as contained in the Continuing Resolution for fiscal year 1986, prohibits alteration of the command structure for military forces in Alaska. Command arrangements for Alaska are unnecessarily and ineffectively divided and preclude improved preparedness for possible military operations in times of war or crisis. Two years ago, the Joint Chiefs of Staff recommended substantial restructuring of command arrangements for Alaska.

The Committee believes that the current congressional prohibition is an unwarranted infringement upon the President's authority to specify command arrangements for U.S. military forces. In section 114 of this bill, the Committee, therefore, recommends repeal of section 8106 of the Department of Defense Appropriations Act, 1986.

SEC. 115. POSITIONS OF IMPORTANCE AND RESPONSIBILITY

Section 115 of this bill would amend section 601 of title 10 to add two new personnel provisions. First, it would add a new subsection (d) to section 601 requiring the Chairman of the Joint Chiefs of Staff to evaluate the joint duty performance of officers recommended to the President for promotion to the grades of 4-star general or admiral or 3-star lieutenant general or vice admiral. The Chairman's evaluation and the promotion recommendation would be submitted to the President at the same time.

The Committee recommends this new duty for the Chairman in the expectation that it will encourage highly qualified officers to seek joint assignments and to perform their duties in these positions with objectivity. It would formalize the informal role that the Chairman now plays in the evaluation of senior officers for promotion.

The second new subsection added by section 115 would require the Secretary of Defense to inform the President of the qualifications needed by officers to serve in certain senior military positions. The positions encompassed by new subsection (e) would be those designated by the President under section 601(a) of title 10 as positions of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral.

Like another similar provision (section 133(f) as added by section 103 of this bill) affecting civilian political appointees, this provision is intended to ensure that the Secretary of Defense is involved in the selection of military officers to fill key positions. It should also encourage the Secretary of Defense and other senior civilian decision-makers to consider more explicitly the military experience and skills needed in positions of importance and responsibility.

SEC. 116. SERVICE OF OFFICERS IN JOINT DUTY POSITIONS

Section 116 of this bill would amend section 646 of title 10 to direct the Secretary of Defense to ensure that the Services' personnel policies enhance the ability of officers to perform joint duties. In carrying out this important duty, the Secretary would be required to achieve certain specified goals. One of the Secretary's goals would be to ensure that officers are well prepared to serve in joint duty positions as the result of previous experience, formal education, and training. The Committee expects the Secretary of Defense to always consider previous joint duty experience in ensuring that officers with such experience are well prepared to assume joint duty positions.

The Committee expects the Secretary of Defense to undertake serious efforts to improve the ability of officers to perform joint duties. Although the Defense Department has made some helpful changes in this long neglected personnel area, much more can be done to enhance incentives for joint service within the Services' personnel management systems. In deciding not to mandate particular personnel changes in this bill, the Committee offers the Secretary the opportunity to take whatever action he believes is necessary to achieve the goals specified in section 646 of title 10, as amended by section 116 of this bill.

SEC. 117. DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

Section 117 of this bill would amend chapter 8 of title 10 to add a new section 191 dealing with common supply and service activities and to redesignate current sections 191 and 192 as sections 195 and 196, respectively. In addition, section 117 would create two subchapters in chapter 8: Subchapter I—Common Supply and Service

Activities containing section 191 and Subchapter II—Defense Intelligence Agency containing sections 195 and 196 (as redesignated).

The current authority for the Secretary of Defense to establish common supply and service activities—the Defense Agencies and Department of Defense Field Activities—is contained in subsection (d) of section 125 of title 10. Section 117 would delete subsection (d) of section 125 and would reenact that authority in a new section 191 in chapter 8. The Committee recommends establishment of a new section dealing with Defense Agencies and DoD Field Activities in order to give more appropriate statutory emphasis to these agencies, which have important resource management responsibilities. Section 191 would govern all Defense Agencies and DoD Field Activities that now exist or may be established.

There are currently 14 Defense Agencies and 8 DoD Field Activities (which perform selected support and service functions of a more limited scope than Defense Agencies):

Defense Agencies

Defense Advanced Research Projects Agency
Defense Communications Agency
Defense Contract Audit Agency
Office of Defense Inspector General
Defense Intelligence Agency
Defense Investigative Service
Defense Legal Services Agency
Defense Logistics Agency
Defense Mapping Agency
Defense Nuclear Agency
Defense Security Assistance Agency
Uniformed Services University of the Health Sciences
National Security Agency
Strategic Defense Initiative Organization

DoD Field Activities

American Forces Information Service
Department of Defense Dependents Schools
Office of the Civilian Health and Medical Program of the Uniformed Services
Office of Economic Adjustment
Defense Medical Systems Support Center
Washington Headquarters Services
Defense Technology Security Administration
Defense Information Services Activity

Subsection (a) of section 191 would authorize the Secretary of Defense to establish a Defense Agency or DoD Field Activity to provide for the performance of a supply or service activity which is common to more than one Military Department. The Secretary of Defense may take such action whenever he determines that it would be more effective, economical, or efficient. Subsection (a) does not relate to the authority of the Secretary of Defense to assign to a Military Department the responsibility of serving as an executive agent for the Department of Defense for a particular support function.

Subsection (b) of section 191 would require the Secretary of Defense to assign responsibility for the overall supervision of each Defense Agency, except for the Defense Intelligence Agency and the National Security Agency, and each DoD Field Activity to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, the DoD Comptroller, the DoD General Counsel, or the JCS Chairman. The Committee has specified this requirement with the goal of improving the supervision and control of these agencies and activities. The Committee has excluded the Defense Intelligence Agency and the National Security Agency from the requirements of subsection (b) to ensure their continued direct access to the Secretary of Defense in order to provide independent, unbiased intelligence information and assessments and to obtain funding for critical intelligence efforts. The Committee does not intend this exclusion to preclude the Secretary of Defense from receiving staff assistance in the management of these agencies; rather the Committee intends that the existing relationships of these agencies to the Secretary be maintained.

Subsection (b) would also require each official assigned such supervisory responsibility to advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of these agencies and activities conform with the material requirements of the Military Departments and the operational requirements of the unified and specified combatant commands. This requirement is designed to link closely the output of these agencies and activities with the needs of the organizations that they serve.

Subsection (c) of section 191 would require the Secretary of Defense to establish procedures for the full and effective review of the program recommendations and budget proposals of each Defense Agency and DoD Field Activity. DoD's resource allocation process is oriented toward the proposals of the Military Departments and gives insufficient attention to resource management by the Defense Agencies and DoD Field Activities. Subsection (c) seeks to provide more appropriate emphasis on the programming and budgeting of the common supply and service agencies and activities.

Certain Defense Agencies have wartime support responsibilities. However, these responsibilities do not now receive adequate attention. Paragraph (1) of subsection (d) of section 191 would require the JCS Chairman to advise the Secretary of Defense on the preparedness of these agencies to perform their wartime responsibilities. Paragraph (2) of subsection (d) would require the Secretary of Defense and the Director of Central Intelligence to jointly develop and implement, as they may determine to be necessary, policies and programs to correct deficiencies the JCS Chairman may identify in the wartime support capabilities of the Defense Intelligence Agency and the National Security Agency. The Committee recommends this dual assignment because it will take cooperative action by the Secretary of Defense and the Director of Central Intelligence to correct deficiencies in these two intelligence agencies.

Subsection (e) of section 191 would require the Secretary of Defense to assess periodically the continuing need for each Defense Agency and DoD Field Activity. In addition, the Secretary would be required to assess the division of responsibilities between these agencies and activities and other components of the Department of

Defense. These two requirements are designed to force a reexamination of common supply and service agencies to ensure that they continue to provide the most effective, economical, or efficient arrangements.

SEC. 118. REDUCTION IN PERSONNEL ASSIGNED TO DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

Section 118 of this bill, a free-standing provision of law, would require certain reductions in the total number of military and civilian personnel assigned to Defense Agencies and Department of Defense (DoD) Field Activities. Section 118 would require a total reduction of 9,947 personnel in the Defense Agencies and DoD Field Activities. Other provisions of this bill would require an additional reduction of 7,747 personnel assigned to management headquarters activities and management headquarters support activities in the Military Departments and unified and specified combatant commands. Given the size of these reductions, the Committee urges the Senate Committee on Governmental Affairs to review the need for the Secretary of Defense to have special authority to waive any applicable civil service laws and regulations necessary to carry out these reductions in the most efficient and orderly manner.

Subsection (a) of section 118 would require at least a 15-percent reduction in personnel in management headquarters activities or management headquarters support activities, as defined by subsection (g) of section 118 of this bill, by September 30, 1988. Subsection (a) would also provide that any reductions in such personnel greater than the required 15 percent may be applied toward the other personnel reductions required in the Defense Agencies and DoD Field Activities by subsection (b) of section 118. The Committee believes that too many people are assigned to management activities in these organizations and that the prescribed reductions would enhance economy and efficiency. To provide for orderly implementation, the Committee recommends that a period of more than 2 years be allowed before the limitation on assigned personnel would be effective.

Subsection (b) of section 118 would require at least a 10-percent reduction in non-management personnel assigned or detailed to permanent duty in the Defense Agencies and DoD Field Activities by September 30, 1988. The Committee believes that improved supervision and control of these common supply and service activities and a rigorous review of the scope of their responsibilities will permit a 10-percent personnel reduction without affecting essential operations.

Subsection (c) would prohibit the accomplishment of these reductions by recategorizing or redefining duties, functions, offices, or organizations. It is the Committee's intent that these personnel reductions be achieved through careful management review of personnel needs and not by the transfer of personnel performing the same functions to new or existing organizations that would not be affected by these reductions. The Committee does not intend, however, to preclude any internal reorganizations that would provide for the more efficient use of personnel.

Subsection (d) would direct the Secretary of Defense to allocate the reductions of personnel in management activities and in other activities among the 14 Defense Agencies and 8 DoD Field Activities. Subsection (d) would also authorize the Secretary of Defense to consolidate and eliminate any unnecessary headquarters activities.

The Committee urges the Secretary of Defense, prior to his allocation of personnel reductions among these activities, to carefully consider the recommendation of the President's Blue Ribbon Commission on Defense Management relating to the the Defense Advanced Research Projects Agency (DARPA). The Commission recommended:

> To promote innovation, the role of the Defense Advanced Research Projects Agency should be expanded to include prototyping and other advanced development work on joint programs and in areas not adequately emphasized by the Services. (page 18)

Implementation of this recommendation is likely to require some augmentation of personnel assigned to DARPA. Because only 128 personnel are currently assigned to DARPA within a total of 97,850 personnel assigned to all Defense Agencies (not including the National Security Agency) and DoD Field Activities, the Committee believes that any necessary expansion of DARPA personnel would not be precluded by the proposed reductions.

Subsection (e) would provide that the reductions required by section 118 would not apply to the National Security Agency. Because the number of personnel assigned to the National Security Agency is classifed security information, the Committee recommends that personnel reductions for that agency not be included as part of this requirement.

Subsection (f) would prohibit future increases in the number of personnel assigned to Defense Agencies and DoD Field Activities above the reduced levels to be achieved by September 30, 1988. Once these personnel reductions are achieved, it is the Committee's recommendation that they would become a permanent personnel ceiling. This limitation would not, however, apply in time of war or during a national emergency declared by the Congress.

SEC. 119. ADDITIONAL CONFORMING AMENDMENTS

Section 119 of this bill would provide additional conforming amendments for title 10, United States Code, and for the Arms Export Control Act. These conforming amendments would simply change section citations in various provisions of law to make them consistent with the redesignation of sections that would be provided by this bill.

Overview of Titles II, III, and IV

This bill would substantially amend those chapters of subtitles B, C, and D of title 10 dealing with the organization of the Army, Navy and Marine Corps, and Air Force. The statutes specifying the organization of the Army and Navy and Marine Corps were amended only slightly at the time of the creation of the National Military Establishment by the National Security Act of 1947. Since the statutes relating to the organization of the Air Force, created as a separate department in 1947, were based upon the existing Army statutes, they also did not fully implement the fundamental changes resulting from the National Security Act of 1947. Moreover, as the War and Navy Departments had previously been separate executive-level departments and their governing legislation had been prepared by separate congressional committees, the Army (and Air Force) statutes had a substantial number of inconsistencies when compared to Navy and Marine Corps statutes. These inconsistencies remain in the current statutes.

Although the National Security Act was amended in 1949, 1953, and 1958, the Military Department statutes, for the most part, were not amended to fully reflect the creation of the Department of Defense and the authorities provided to other elements of the Department of Defense. Most notable in this regard was (1) a failure to redefine the roles of the Secretaries of the Military Departments as the authority of the Secretary of Defense was augmented in 1949, 1953, and 1958 and (2) a failure to fully recognize the division of operational and administrative responsibilities directed by the 1958 Amendments to the National Security Act of 1947.

To a great extent, this bill would amend those portions of title 10 dealing with the organization of the Military Departments to (1) make them conform with the basic principles of the National Security Act of 1947, which were reaffirmed by the Committee during its preparation of this bill, and (2) remove unnecessary and undesirable inconsistencies. In addition, this bill seeks to solve the problem of duplication of effort in the top management headquarters of each Military Department.

In preparing revisions of the Military Department statutes, the Committee carefully examined the existing provisions of law. The resulting revisions are a compilation of the most appropriate provisions of each of the Military Department statutes. The Committee also found no reason that these statutes should not be, with a limited number of exceptions, as consistent as possible. The Committee also recommends that the chapters dealing with the organization of each Military Department be structured in a similar manner. Tables 1 and 2 show the reorganization and consolidation of the chapters dealing, respectively, with the Military Department Secretaries and Secretariats and Service Headquarters Staffs that would be provided by this bill.

TABLE 1.—*Chapters relating to Military Department Secretaries and Secretariats*

CHAPTER 303—DEPARTMENT OF THE ARMY

Sec.	
3011.	Organization.
3012.	Department of the Army: seal.
3013.	Secretary of the Army: appointment; powers and duties; delegation authority.
3014.	Office of the Secretary of the Army.
3015.	Under Secretary of the Army: appointment; powers and duties.
3016.	Assistant Secretaries of the Army: appointment; powers and duties.
3017.	Secretary of the Army: successors to duties.
3018.	Inspector General of the Army: detail; duties.
3019.	Reserve components of Army: policies and regulations for government of.

TABLE 1.—*Chapters relating to Military Department Secretaries and Secretariats—Continued*

CHAPTER 503—DEPARTMENT OF THE NAVY

Sec.
5011. Organization.
5012. Department of the Navy: seal.
5013. Secretary of the Navy: appointment; powers and duties; delegation authority.
5013a. Secretary of the Navy: powers with respect to Coast Guard.
5014. Office of the Secretary of the Navy.
5015. Under Secretary of the Navy: appointment; powers and duties.
5016. Assistant Secretaries of the Navy: appointment; powers and duties.
5017. Secretary of the Navy: successors to duties.
5018. Naval Inspector General: detail; duties.
5019. Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties
5020. Office of Naval Research: duties.
5021. Office of Naval Research: appropriations; time limit.
5022. Naval Research Advisory Committee.

CHAPTER 803—DEPARTMENT OF THE AIR FORCE

Sec.
8011. Organization.
8012. Department of the Air Force: seal.
8013. Secretary of the Air Force: appointment; powers and duties; delegation authority.
8014. Office of the Secretary of the Air Force.
8015. Under Secretary of the Air Force: appointment; powers and duties.
8016. Assistant Secretaries of the Air Force: appointment; powers and duties.
8017. Secretary of the Air Force: successors to duties.
8018. Inspector General of the Air Force: detail; duties.
8019. Reserve components of Air Force: policies and regulations for government of; functions of National Guard Bureau with respect to Air National Guard.

TABLE 2.—*Chapters relating to Service Headquarters Staffs*

CHAPTER 305—THE ARMY STAFF

Sec.
3031. The Army Staff: composition; assignment and detail of members of Army and civilians.
3032. The Army Staff: general duties.
3033. Chief of Staff: appointment; term of office; powers and duties.
3034. Vice Chief of Staff: appointment; powers and duties; succession to duties of Chief of Staff.
3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff: detail.
3036. Chiefs of branches: appointment; duties.
3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
3038. Office of Army Reserve: appointment of Chief.
3039. Provost Marshal General.
3040. Deputy and assistant chiefs of branches.
3041. Chief of National Guard Bureau: appointment; acting chief.

CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

Sec.
5031. Office of the Chief of Naval Operations.
5032. Office of the Chief of Naval Operations: general duties.
5033. Chief of Naval Operations: appointment; term of office; powers and duties.
5034. Chief of Naval Operations: retirement.
5035. Vice Chief of Naval Operations: appointment; powers and duties; succession to duties of Chief of Naval Operations.
5036. Deputy Chiefs of Naval Operations: detail; duties.
5037. Assistant Chiefs of Naval Operations: detail; duties.

TABLE 2.—*Chapters relating to Service Headquarters Staffs*—Continued

CHAPTER 515—HEADQUARTERS, MARINE CORPS

Sec.	
5201.	Headquarters, Marine Corps.
5202.	Headquarters, Marine Corps: general duties.
5203.	Commandant of the Marine Corps: appointment; term of office; powers and duties.
5204.	Assistant Commandant of the Marine Corps: appointment; powers and duties; succession to duties of Commandant.

CHAPTER 805—THE AIR STAFF

Sec.	
8031.	The Air Staff: composition; assignment and detail of members of Air Force and civilians.
8032.	The Air Staff: general duties.
8033.	Chief of Staff: appointment; term of office; powers and duties.
8034.	Chief of Staff: appointment; powers and duties; succession to duties of Chief of Staff.
8035.	Deputy Chiefs of Staff and Assistant Chiefs of Staff: detail.
8036.	Surgeon General: appointment; grade.
8037.	Judge Advocate General, Deputy Judge Advocate General: appointment; duties.
8038.	Office of Air Force Reserve: appointment of Chief.

In proposing amendments to the Military Department statutes, the Committee set the following objectives:

(1) clarify the responsibilities of the Secretaries of the Military Departments to the Secretary of Defense;

(2) clarify that the Secretary of each Military Department performs his duties subject to the authority, direction, and control of the Secretary of Defense;

(3) provide a more comprehensive description of the functions (recruit, organize, supply, equip, train, etc.) of each Military Department;

(4) delete outdated references to operational responsibilities of the Military Departments in order to fully implement the 1958 Amendments to the National Security Act of 1947;

(5) delete or update anachronistic provisions that are inconsistent with the National Security Act of 1947;

(6) establish the Offices of the Secretaries of the Army, Navy, and Air Force in law;

(7) establish the Office of the Chief of Naval Operations and the Headquarters, Marine Corps in law;

(8) make consistent the appointment, authorities, duties, responsibilities, and limitations of the comparable officers and offices of the top management headquarters of each Military Department;

(9) clarify that the officers and offices of the top management headquarters of each Military Department perform their duties subject to the authority, direction, and control of the Secretary of that department;

(10) strengthen the authority of the Secretaries of the Military Departments to prescribe the officers and offices of the top management headquarters and to specify their duties;

(11) clarify that the performance of duty by a Service Chief as a member of the Joint Chiefs of Staff is not subject to the authority, direction, and control of the respective Secretary of a Military Department; and

(12) eliminate the duplication of effort between the Service Secretariats and military headquarters staffs.

Title II—Army

SEC. 201. DEPARTMENT OF THE ARMY

Section 201 of this bill would amend chapter 303 dealing with the Department of the Army to reorganize the chapter, to establish the Office of the Secretary of the Army in law, and to clarify the powers, duties, and responsibilities of certain officials, especially the Secretary of the Army. Section 201 has three subsections. Subsection (a) is the major portion of the section while subsection (b) provides conforming amendments and subsection (c) provides an effective date for the personnel limitation on the Office of the Secretary of the Army.

In terms of reorganizing chapter 303, section 201 would:

redesignate section 3010 (Organization) and 3011 (Department of the Army: seal) as sections 3011 and 3012, respectively, without amending the sections;

strike out section 3012 and insert in lieu thereof a new section 3013 (Secretary of the Army: appointment; powers and duties; delegation authority);

strike out section 3013 and insert in lieu thereof a new section 3015 (Under Secretary of the Army: appointment; powers and duties);

strike out section 3014 (Comptroller of the Army: appointment; functions);

add a new section 3014 (Office of the Secretary of the Army);

redesignate section 3015 (Chief of National Guard Bureau: appointment; acting chief) as section 3041 and transfer it to chapter 305;

strike out section 3016 (Administrative Assistant);

add a new section 3016 (Assistant Secretaries of the Army: appointment; powers and duties);

add a new section 3018 (Inspector General of the Army: detail; duties);

strike out section 3019 (Office of Army Reserve: appointment of Chief); and

redesignate section 3033 (Reserve components of Army: policies and regulations for government of), now part of chapter 305, as section 3019 and transfer it to chapter 303.

Chapter 303 of title 10, which is amended by section 201 of this bill, deals primarily with the Secretary of the Army and the offices and officers that comprise the Office of the Secretary of the Army. In the reorganization of the chapter, all sections of the Army statutes dealing with these offices are placed in chapter 303 and those dealing with other Army organizations are deleted and reenacted elsewhere. In particular, section 3015 (Chief of National Guard Bureau) and section 3019 (Office of Army Reserve) are deleted from the chapter and reenacted elsewhere. Likewise, section 3033 (Reserve components of Army) of chapter 305 dealing with the Army Reserve Forces Policy Committee is transferred to chapter 303.

The striking out of current sections 3014 and 3016 would mean that the positions of Comptroller of the Army and Administrative Assistant would no longer be established by law. The Committee believes that these officials, if they are required, do not need to be specified in law. Striking these sections does not prohibit the Secretary of the Army from continuing to designate these two positions.

Beyond these changes, three newly created sections would be added to chapter 303. Section 3014 would establish the Office of the Secretary of the Army in law. Section 3016 would provide a separate section for the Assistant Secretaries of the Army. The Assistant Secretaries and the Under Secretary of the Army are currently included in a single section (existing section 3013). The third section added is section 3018 dealing with the Inspector General of the Army. The Committee recommends that the Inspector General be designated as part of the Office of the Secretary of the Army. To implement this policy recommendation, the portion of section 3039 in chapter 305 dealing with the Inspector General would be reenacted in new section 3018 in chapter 303.

Beyond these reorganizational changes, section 201 of this bill would make substantial amendments to current prescriptions for the Secretary of the Army and offices and officers of the Office of the Secretary of the Army. These changes are described in the remainder of the analysis of section 201.

Sec. 3013. Secretary of the Army: appointment; powers and duties; delegation authority

New section 3013 dealing with the Secretary of the Army is based upon the current section 3012. The changes to existing law are highlighted in this discussion. Subsection (a) of new section 3013 deals with the appointment of the Secretary of the Army and would make two changes. First, the Secretary of the Army would be required to be appointed from civilian life by the President, by and with the advice and consent of the Senate. Although it has been the practice, the law does not now require the Secretary of the Army to be a civilian appointed by the President and confirmed by the Senate. Of the three Secretaries of the Military Departments, these statutory requirements apply only to the Secretary of the Air Force.

The second change that would be made by subsection (a) is a limitation that the Secretary of the Army not have served on active duty as a regular officer within 5 years of his appointment. Given the important role of the Secretary of the Army in assuring civilian control of the military, the Committee believes that an appropriate separation from military service is warranted. While recognizing that this limitation for the Secretary and Deputy Secretary of Defense is for a period of 10 years, the Committee believes that a 5-year period of separation for the Secretary of each Military Department is adequate.

Subsection (b) of section 3013 would provide a comprehensive presentation of the responsibilities of the Secretary of the Army with respect to the functions of the Department of the Army. Subsection (b) would also clarify that the Secretary carries out these responsibilities subject to the authority, direction, and control of the Secretary of Defense. The current statute dealing with these responsibilites of the Secretary of the Army includes functions necessary or appropriate for the "operations" of the Army. The Committee recommends that "operations" be removed from any prescription of the responsibilities of the Secretary of the Army. This recommendation seeks to avoid confusing the separate and distinct responsibilities of the operational and administrative elements of the Department of Defense. Military operations are the sole responsibility of the operational chain of command which does not include the Military Departments. While removing "operations" from the responsibilities of the Secretary of the Army for this important purpose, the Committee agrees that each Secretary of a Military Department would retain authority to use military equipment and forces for activities such as disaster relief, response to domestic disturbances, public affairs, the operations of non-combatant forces, and many training activities.

Subsection (c) of section 3013 would specify the responsibilities of the Secretary of the Army to the Secretary of Defense. The Committee believes that one of the major shortcomings of current law is its failure to clarify the role of the Secretaries of the Military Departments as subordinates of the Secretary of Defense. Subsection (c) would clarify this role by prescribing seven specific responsibilities.

Clause (1) of subsection (c) would specify that the Secretary of the Army is responsible to the Secretary of Defense for the functioning and efficiency of the Secretary of the Army. This clause would continue a current responsibility of the Secretary of the Army, except that the term "functioning" is substituted for the current term "operations". This change is recommended by the Committee in order to preclude the implication that the Secretary of the Army has operational responsibilities.

Clause (2) of subsection (c) would specify that the Secretary of the Army is responsible to the Secretary of Defense for the formulation of policies and programs that are fully consistent with the national security objectives and policies established by the President or the Secretary of Defense. National security objectives and policies can play an important role in achieving a coordinated effort by the various components of the Department of Defense, but only if the components are committed to them. Clause (2) seeks to require the Secretary of the Army to ensure that the Army's policies and programs are fully consistent with the broader objectives and policies of the national security effort.

Clause (3) of subsection (c) would specify that the Secretary of the Army is responsible to the Secretary of Defense for the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense. On occasion, the Military Departments have failed to fully comply with decisions by higher authority. This has weakened the effectiveness of defense management and has fostered micro-management by the Office of the Secretary of Defense. Clause (3) would clearly provide that the Secretary of the Army is to be held fully accountable for the Army's conformance to decisions by higher authority.

DoD Directive 7045.14 concerning the Planning, Programming, and Budgeting System (PPBS) states:

> The ultimate objective of the PPBS shall be to provide the operational commanders-in-chief [the unified and specified combatant commanders] the best mix of forces, equipment, and support attainable within fiscal constraints. (page 1)

This objective is often obscured in DoD decision-making. Clause (4) of subsection (c) of section 3013 would specify that the Secretary of the Army is responsible to the Secretary of Defense for carrying out the functions of the Department of the Army so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands.

Clause (5) would specify that the Secretary of the Army is responsible to the Secretary of Defense for effective cooperation and coordination between the Department of the Army and the other Military Departments and DoD agencies to provide for more effective, efficient, and economical administration and to eliminate duplication. To a great extent, cooperation and coordination among the Military Departments result from the active involvement of multi-Service organizations (e.g., the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff). Clause (5) seeks to place more of the initiative for effective inter-Departmental cooperation and coordination at the Military Department level.

Clause (6) of subsection (c) would specify that the Secretary of the Army is responsible to the Secretary of Defense for the presentation and justification of the positions of the Department of the Army on the plans, programs, and policies of the Department of Defense. This clause conforms with the normal practice within the Department of Defense. It would, however, further emphasize the role of the Secretary of the Army as head of the Department of the Army.

Clause (7) would specify that the Secretary of the Army is responsible to the Secretary of Defense for the effective supervision and control of the intelligence activities of the Department of the Army. There has been some confusion over the role of the Secretaries of the Military Departments concerning intelligence activities because of those activities' close association with operational matters. Clause (7) would end this confusion by specifying that the Secretary of the Army is responsible for the Army's intelligence activities.

Subsection (d) of section 3013 would continue a current provision of subsection (b) of existing section 3012. It provides that the Secretary of the Army is also responsible for other activities as may be prescribed by the President or the Secretary of Defense. Subsection (d) would add activities as may be prescribed by law to this responsibility.

Subsection (e) would continue a current provision of subsection (b) of existing section 3012 that provides that, after first informing the Secretary of Defense, the Secretary of the Army may make such recommendations to Congress relating to the Department of Defense as he considers appropriate. While President Truman in 1949 and President Eisenhower in 1958 sought to have this authority or a similar authority repealed, the Committee concludes that this authority has not posed a problem and should be continued.

Subsection (f) would continue the authority provided in subsection (c) of existing section 3012 relating to the authority of the Secretary of the Army to assign his functions, powers, and duties to the Under Secretary and Assistant Secretaries. Subsection (g) would continue the authority provided in subsection (e) of existing section 3012 relating to the Secretary's authority to assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army. Subsection (h) would continue the authority provided in subsection (f) of existing section 3012 relating to the Secretary's authority to change the title of any officer or activity of the Department of the Army not prescribed by law. Subsection (i) would continue the authority provided in subsection (g) of existing section 3012 relating to the Secretary's authority to prescribe regulations to carry out his functions, powers, and duties.

Sec. 3014. Office of the Secretary of the Army

Section 3014 deals with the Office of the Secretary of the Army. Subsection (a) would establish this office in law. Subsection (b) would specify the composition of the office, including the Under Secretary, the Assistant Secretaries, the Inspector General of the Army, and the Army Reserve Forces Policy Committee.

Subsection (c) of section 3014 would require the Secretary of the Army to ensure that the Office of the Secretary of the Army does not duplicate specific functions for which the Army Staff has been assigned responsibility. The existence of two separate top management headquarters—the Office of the Secretary of the Army and the Army Staff—has caused problems in terms of duplication of effort. The Committee believes that the Secretary of the Army must devote greater attention and take forceful action to eliminate this counterproductive and inefficient situation. While recommending the elimination of duplication, the Committee does see a continuing need for the General Counsel of the Army as a key assistant to the Secretary of the Army, particularly on sensitive matters directly related to civilian control of the military.

In accordance with subsection (c), subsection (d) would require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Secretary of the Army. This reduced level would then become a permanent personnel ceiling. This limitation would not, however, apply in time of war or during a national emergency declared by Congress. The Committee believes that this 15-percent personnel reduction would be made possible by the elimination of duplication that would be mandated by subsection (c). The effective date of subsection (d) appears as subsection (c) of section 201 of this bill.

Sec. 3015. Under Secretary of the Army: appointment; powers and duties

Section 3015 deals with the Under Secretary of the Army, which is now part of existing section 3013. Subsection (a) would continue to specify that the Under Secretary be appointed from civilian life by the President, by and with the advice and consent of the Senate. Subsection (b) would provide that the Under Secretary shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

Sec. 3016. Assistant Secretaries of the Army: appointment; powers and duties

Section 3016 deals with the Assistant Secretaries of the Army, which are now part of existing section 3013. Subsection (a) would continue to prescribe five Assistant Secretaries appointed from civilian life by the President, by and with the advice and consent of the Senate. Subsection (b) would provide that the Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe. In addition, subsection (b) would continue to specify the titles and duties of two Assistant Secretaries: Manpower and Reserve Affairs and Civil Works. Given the important manpower responsibilities of the Department of the Army, especially regarding the reserve components, the Committee believes that the Assistant Secretary for Manpower and Reserve Affairs should be a specified position. As the civil works function is a unique responsibility assigned to the Army, the Committee believes that the Assistant Secretary for Civil Works should also be specified in the law.

Sec. 3017. Secretary of the Army: successors to duties

Section 3017 deals with the successors to the duties of the Secretary of the Army if he dies, resigns, is removed from office, is absent, or is disabled. Section 201 of this bill would delete subsection (b) which relates to performance of the Secretary's duties by the Chief of Staff, who is last in the specified line of succession, or by any officer of the Army designated under section 3347 of title 5. Subsection (b) provides that such performance of duties shall not be considered as the holding of a civil office within the meaning of section 973(b) of this title. Amendments to section 973(b) that antedate section 3017(b) preclude the need for the subsection. For this reason, the Committee recommends that subsection (b) be deleted.

Sec. 3018. Inspector General of the Army: detail; duties

Section 3018 deals with the Inspector General of the Army, which is currently a part of section 3039 of chapter 305. Subsection (a) would continue the current prescriptions for the detail of the Inspector General by the Secretary of the Army. In accordance with the Committee's recommendation, subsection (a) would provide that the Inspector General would be part of the Office of the Secretary of the Army. The Inspector General can assist the Secretary of the Army in carrying out his responsibilities to provide effective civilian control of the Department of the Army. For this reason, the Committee believes that the Inspector General should be directly subordinated to the Secretary of the Army. Subsections (b) and (c) would prescribe the duties of the Inspector General. Subsection (d) would continue the authority now provided in subsection (a) of section 3040 for the Inspector General to have such deputies and assistants as the Secretary of the Army may prescribe.

Sec. 3019. Reserve components of Army: policies and regulations for government of

Section 3019 deals with the Army Reserve Forces Policy Committee. This committee is now addressed in section 3033 in chapter 305 which would be redesignated as section 3019 and transferred to chapter 303. Beyond these changes, subsection (a) of section 3019 (as redesignated) would be amended to require the Army Reserve Forces Policy Committee to review and comment upon major policy matters directly affecting the mobilization preparedness of the Army. Currently, the committee only reviews and comments on matters affecting the reserve components. The Committee believes that assigning the additional responsibility related to mobilization preparedness would enhance the contributions of the committee to Army planning and policymaking. Subsection (a) would be further amended to require the comments of the Army Reserve Forces Policy Committee to be submitted to the Secretary of the Army, instead of the Assistant Secretary responsible for reserve affairs, as well as to the Chief of Staff.

SEC. 202. THE ARMY STAFF

Section 202 of this bill would amend chapter 305 dealing with the Army Staff to reorganize the chapter and to clarify the powers, duties, and responsibilities of certain officers and offices. The seven subsections of section 202 concern the following: (a) composition of the Army Staff; (b) general duties of the Army Staff; (c) Chief of Staff; (d) Vice Chief of Staff; (e) Deputy Chiefs of Staff; (f) conforming amendments; and (g) effective date of personnel limitations on the Army Staff.

Section 3031. The Army Staff: composition; assignment and detail of members of Army and civilians

Subsection (a) of section 202 would amend section 3031 dealing with the composition of, and assignment of personnel to, the Army Staff. Subsection (a) of section 3031, which establishes the Army Staff, would be amended to specify that the Army Staff is to assist the Secretary of the Army in carrying out his responsibilities. This change would clarify the role of the Army Staff.

Subsection (b) of section 3031, which specifies the composition of the Army Staff, would be amended to reduce the number of authorized Assistant Chiefs of Staff from five to three. At present, the Army Staff has only two Assistant Chiefs of Staff, so no positions would be disestablished by this change. In addition, the Chief of Army Reserve would be added to the composition of the Army Staff. Given the recommended assignment of the Inspector General to the Office of the Secretary of the Army, he would no longer be included as part of the Army Staff. Lastly, the deputy and assistant chief of branches would no longer be specifically listed as part of the Army Staff.

Subsection (c) of section 3031 would continue unamended the authority now provided in the current subsection (b) for the Secretary of the Army to organize the Army Staff and to prescribe the duties and titles of its members. It would also continue to authorize the designation of part of the Army Staff as the Army General Staff.

Paragraph (1) of subsection (d) of section 3031 would require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty to the Army Staff. This reduced level would then become a permanent personnel ceiling. This limitation would not, however, apply in time of war or during a national emergency declared by Congress. The Committee believes that this 15-percent personnel reduction would be made possible by the elimination of the duplication of effort between the Army Staff and the Office of the Secretary of the Army and between the Army Staff and the Joint Staff.

Paragraph (2) of subsection (d) would continue limitations, now provided by the current subsection (c), on the number of Army officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and the Army Staff and on or with the Army General Staff. The broader limitation of the current subsection (c) applies to officers assigned or detailed to permanent duty in the executive part of the Department of the Army. Because the executive part of the Department is not precisely defined, the Committee believes that the Office of the Secretary of the Army and the Army Staff should be used instead. The statutory limit on the total number of officers that could be assigned to the Office of the Secretary of the Army and the Army Staff would be reduced from 3,000 to 1,875 as of September 30, 1988. As only 1,536 Army officers are currently assigned to these organizations, this new limitation would not require any reductions in the number of assigned Army officers. Because the Army makes greater use of civilians in its top management headquarters, the Committee does not want to penalize the Army. Accordingly, the limit of 1,875 officers represents 60 percent of the total personnel assigned to the Office of the Secretary of the Army and the Army Staff, which is comparable to the current percentages of military officers assigned to the top management headquarters of the Departments of the Navy and Air Force. The current limitation of 1,000 officers on or with the Army General Staff would not be changed. These limitations would not, however, apply in time of war or during a national emergency declared by Congress or whenever the President finds that it is in the national interest to increase the number of such assigned officers. The effective date of paragraphs (1) and (2) of subsection (d) of section 3031 appears as subsection (g) of section 202 of this bill.

Sec. 3032. The Army Staff: general duties

Subsection (b) of section 202 of this bill would amend section 3032 dealing with the general duties of the Army Staff. Subsection (a) of section 3032 would be amended to specify that the Army Staff shall furnish professional assistance to the Chief of Staff of the Army as well as to the Secretary, Under Secretary, and Assistant Secretaries.

Subsection (b) of section 3032 would be amended with three changes. First, it would be made clear that the Army Staff performs its duties under the authority, direction, and control of the Secretary of the Army. Second, the list of the functions of the Army in clause (1) would be made consistent with the functions for which the Secretary of the Army has been assigned responsibility in subsection (b) of section 3031 (as amended by section 201 of this bill). Third, in clause (2), the preparation of the Army for military operations would be changed to the preparation of the Army to support military operations by combatant commands. This last change would conform this clause with the 1958 Amendments to the National Security Act which removed the Department of the Army from the operational dimension of the Department of Defense.

Sec. 3033. Chief of Staff: appointment; term of office; powers and duties

Subsection (c) of section 202 of this bill would redesignate section 3034 of title 10 dealing with the Chief of Staff of the Army as section 3033 and would make a number of minor modifications. Only technical changes would be made to subsection (a) of section 3033 (as redesignated) while subsection (c) would not be changed.

Subsection (c) of section 3033 (as redesignated) would be amended to specify clearly that the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Army. This change is designed to clarify the subordinate relationship of the Chief of Staff with respect to the functions of the Department of the Army. Subsection (c) would be further amended by removing the following three items for which the Chief of Staff is currently responsible: the efficiency of the Army, its preparedness for military operations, and associated plans. The first phrase relating to the efficiency of the Army is removed because that is a responsibility of the Secretary of the Army. The second and third phrases relating to military operations are removed because the Department of the Army is no longer part of the operational element of the Department of Defense; the Army no longer prepares and makes plans for military operations.

Subsection (d) of section 3033 (as redesignated) prescribes the general duties of the Chief of Staff. This subsection would be amended to clarify again that the Chief of Staff performs these duties subject to the authority, direction, and control of the Secretary of the Army. Beyond technical changes, there are three policy changes. Clause (5) would be amended to delete the reference to the Chief of Staff's duties as a member of the Joint Chiefs of Staff. These duties would be specified in a new subsection (e) of section 3033 (as redesignated). A new clause (6) would be added to require the Chief of Staff to keep the Secretary of the Army fully informed on matters considered or acted upon by the Joint Chiefs of Staff. This requirement is now an administrative regulation of the Department of Defense. Because of its importance to effective management and control in the Military Departments, the Committee recommends that it be made part of the law. The third change would be an amendment to clause (7) (as redesignated) to prescribe that the Chief of Staff shall perform military duties assigned to him by the Secretary of Defense or the Secretary of the Army as well as by the President.

A new subsection (e) would be added to section 3033 (as redesignated) relating to the duties of the Chief of Staff as a member of the Joint Chiefs of Staff. Currently, the duties of the Chief of Staff both within the Department of the Army and as a JCS member are specified in subsection (d) of section 3033 (as redesignated). Because subsection (d) would be amended to prescribe that the Chief of Staff performs his Army duties subject to the authority, direction, and control of the Secretary of the Army, the specification of his JCS duties in subsection (d) should be deleted. The Committee recommends this change because it believes that the JCS duties of the Chief of Staff should not be subject to the authority, direction, and control of the Secretary of the Army. The sole purpose of the new subsection (e) is to place these duties outside the duties of the Chief of Staff that are subject to the authority, direction, and control of the Secretary of the Army.

Sec. 3034. Vice Chief of Staff: appointment; powers and duties; succession to duties of Chief of Staff

Subsection (d) of section 202 of this bill would redesignate section 3035, dealing with the Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff, as section 3034 and would provide that this section deal only with the Vice Chief of Staff. Subsection (a) of section 3034 (as redesignated) would require that the Vice Chief of Staff of the Army be appointed by the President, by and with the advice and consent of the Senate. Of the four Service Vice Chiefs of Staff, this requirement currently applies only to the Vice Chief of Naval Operations. The Committee believes that it should apply to each Service Vice Chief of Staff.

Subsection (b) would provide that the Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his regular or reserve grade. Currently, of the four Vice Chiefs of Staff, only the grade of the Assistant Commandant of the Marine Corps is prescribed in law. The Committee believes that the grade of general or admiral should be specified in law for all Service Vice Chiefs of Staff.

Subsection (c) of section 3034 (as redesignated) would not be changed by this bill. Subsection (c) relates to the delegation of authorities and duties by the Chief of Staff to the Vice Chief of Staff.

Subsection (d) of section 3034 (as redesignated) would provide for the succession to the duties of the Chief of Staff should there be a vacancy in the office of Chief of Staff or should he be absent or disabled. Subsection (d) would slightly modify the current line of succession specified in subsection (b) of existing section 3035. Subsection (d) would specify that the Vice Chief of Staff would perform the duties of the Chief of Staff if there is a vacancy in that office or if he is absent or disabled. If there is a vacancy in the office of Vice Chief of Staff or if he is absent or disabled, then, unless otherwise directed by the President, the most senior Army officer in the Army Staff who is not restricted in performance of duty shall perform the duties of the Chief of Staff.

Subsection (e) of section 202 of this bill would amend chapter 305 of title 10 to add a new section 3035 dealing with the Deputy Chiefs of Staff and Assistant Chiefs of Staff. The new section 3035 would simply indicate that the Deputy and Assistant Chiefs of Staff shall be general officers.

Subsection (f) of section 202 of this bill provides conforming amendments. Paragraph (1) would insert a new section 3038 dealing with the Office of Army Reserve. This section now appears as section 3019 in chapter 303 from which it would be struck. It is more appropriately included in chapter 305 concerning the Army Staff. No amendments would be made to the text of existing section 3019. Paragraph (2) of subsection (f) would amend section 3039 to remove references to the Inspector General of the Army, which would be separately addressed in section 3018 of chapter 303. The remaining portions would only address the Provost Marshal General.

Subsection (g) of section 202 of this bill would provide an effective date of September 30, 1988 for the personnel limitations on the Army Staff that are prescribed in subsection (d) of section 3031 (as amended by subsection (a) of section 202 of this bill).

SEC. 203. COMMANDS

Section 203 of this bill would amend subsection (a) of section 3074 of chapter 307 to provide that the Secretary of the Army's authority to divide the Army into commands, forces, and organizations may be limited by the Secretary of Defense as well as by law.

Title III—Navy

Title III of this bill would amend the statutes governing the organization of the Navy and Marine Corps to make them, with a limited number of exceptions, consistent with those, as amended by this bill, that govern the organization of the Army. In light of this fact, the section-by-section analysis of title III will not repeat information contained in the analysis of Title II. Instead, only differences will be highlighted, and the rationale for the repeal of various provisions of current law will be provided.

SEC. 301. DEPARTMENT OF THE NAVY

Section 301 of this bill would amend chapter 503 of title 10 dealing with the Department of the Navy to include all officers and offices now addressed in chapter 505; to establish the Office of the Secretary of the Navy in law; to clarify the powers, duties, and responsibilities of certain officials, especially the Secretary of the Navy; and to repeal chapters 505 and 507.

At present, chapter 503 contains three sections relating to the composition of the Department of the Navy (section 5011), composition and functions of the United States Navy (section 5012), and composition and functions of the United States Marines Corps (section 5013). These three sections, except for the first two sentences of the first section, would be struck from chapter 503 and reenacted in a new chapter 518. The section heading for section 5011 would be changed to "organization" from "composition".

Section 301 of this bill would further amend chapter 503 to insert seven new sections:

Sec. 5012. Department of the Navy: seal
Sec. 5013. Secretary of the Navy: appointment; powers and duties; delegation authority
Sec. 5013a. Secretary of the Navy: powers with respect to Coast Guard
Sec. 5014. Office of the Secretary of the Navy
Sec. 5015. Under Secretary of the Navy: appointment; powers and duties
Sec. 5016. Assistant Secretaries of the Navy: appointment; powers and duties
Sec. 5017. Secretary of the Navy: successors to duties

Only sections 5012 and 5014 would address subjects not now in the Navy statutes. The other five sections are part of the current chapter 505.

Section 5012 would require (1) the Secretary of the Navy to have a seal for the Department of the Navy; (2) the President to approve the design of the seal; and (3) judicial notice to be taken of the seal. This new section would be identical to the sections that require seals for the Department of the Army and Air Force.

Section 5013 would specify the appointment, powers and duties, and delegation authority of the Secretary of the Navy to be identical to those of the Secretary of the Army. In particular, the specified powers and duties of the Secretary of the Navy would be substantially expanded from the brief prescriptions now in law. Among the notable changes from existing law, the Secretary of the Navy's direct responsibilities to the President, specified in subsection (b) of the current section 5031, would be repealed. Subsection (b) is an anachronistic provision which predates the creation of the position of Secretary of Defense and is no longer appropriate. In addition, subsection (c) of section 5031 dealing with the Secretary of the Navy's custody and charge of all books, records, and other property of the Department of the Navy is placed in a new section of chapter 661 dealing with Accountability and Responsibility.

Section 5013a would reenact without amendment the same powers for the Secretary of the Navy with respect to the Coast Guard as are now specified in section 5032.

Section 5014 would establish the Office of the Secretary of the Navy in law. This section is consistent with section 3014 which establishes the Office of the Secretary of the Army. In this regard, section 5014 would require the Secretary of the Navy to ensure that the Office of the Secretary of the Navy does not duplicate specific functions assigned to the Office of the Chief of Naval Operations and the Headquarters, Marine Corps. While recommending the elimination of duplication, the Committee does see a continuing need for the General Counsel of the Navy as a key assistant to the Secretary of the Navy, particularly on sensitive matters directly related to civilian control of the military. Section 5014 would also require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Secretary of the Navy.

Section 5015 would specify the appointment and powers and duties of the Under Secretary of the Navy. Section 5015 would make only technical amendments to the appointment and powers and duties now specified in section 5033.

Section 5016 would specify the appointment and powers and duties of the Assistant Secretaries of the Navy. Section 5016 would make only technical amendments to the appointments and powers and duties now specified in section 5034. It would continue to authorize four Assistant Secretaries and to specify the title and duties of the Assistant Secretary of the Navy for Manpower and Reserve Affairs.

Section 5017 would specify the successors to duties of the Secretary of the Navy. Section 5017 would be consistent with section 3017, as amended by section 201 of this bill, which specifies the successors to duties of the Secretary of the Army. It would, however, make one policy change in that the Commandant of the Marine Corps instead of the Vice Chief of Naval Operations would be placed in the line of succession after the Chief of Naval Operations.

Paragraph (2) of subsection (a) of section 301 of this bill would redesignate section 5088 (Naval Inspector General: detail; duties) of chapter 509 as section 5018 and would transfer it to chapter 503. This redesignation and transfer would implement the Committee's recommendation that the Naval Inspector General be made part of the Office of the Secretary of the Navy. The Naval Inspector General can assist the Secretary of the Navy in carrying out his responsibilities to provide effective civilian control of the Department of the Navy. For this reason, the Committee believes that the Naval Inspector General should be directly subordinated to the Secretary of the Navy. In addition, subsections (a) and (c) of section 5018 (as redesignated) would be amended (1) to specify that the Office of the Naval Inspector General is part of the Office of the Secretary of the Navy instead of the Office of the Chief of Naval Operations and (2) to require the Naval Inspector General to propose programs of inspections to the Secretary of the Navy instead of the Chief of Naval Operations.

Subsection (b) of section 301 of this bill would redesignate:

> section 5150 (Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties) as section 5019;
>
> section 5151 (Office of Naval Research: duties) as section 5020;
>
> section 5152 (Office of Naval Research: appropriations; time limit) as section 5021; and
>
> section 5153 (Naval Research Advisory Committee) as section 5022.

Beyond these redesignations, subsection (b) would transfer these four sections to chapter 503. As the Office of Naval Research is part of the Office of the Secretary of the Navy, these four sections are more appropriately included in chapter 503.

Subsection (c) of section 301 of this bill would make a number of conforming amendments. Key among these is that chapters 505 and 507 would be repealed. The sections of chapter 505 would be reenacted with revisions in chapter 503. Chapter 507 deals with the Office of the Comptroller of the Navy and contains sections on the Comptroller of the Navy, the Office of Budget and Reports, and the Director and Assistant Director of the Office of Budget and Reports. The repeal of chapter 507 means that these offices and officers would no longer be established by law. The Committee believes that these offices and officers, if they are required, do not need to be specified in law.

In addition, subsection (c) of section 301 of this bill would amend chapter 661 (Accountability and Responsibility) to redesignate sections 7861 and 7862 as sections 7862 and 7863, respectively, and to insert a new section 7861 dealing with custody of departmental records and property. Section 7861 would provide that the Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy. Section 7861 would be consistent with the accountability for these matters now prescribed for the Secretaries of the Army and Air Force.

Subsection (d) of section 301 of this bill would specify the effective date for the personnel reduction specified for the Office of the Secretary of the Navy in section 5014(d).

SEC. 302. OFFICE OF THE CHIEF OF NAVAL OPERATIONS

Section 302 would amend part I of subtitle C of title 10 to insert a new chapter 505 (Office of the Chief of Naval Operations), to strike out chapter 509, to establish the Office of the Chief of Naval Operations in law, and to specify the general duties of that office. Section 302 has three subsections: subsection (a) which would strike chapter 509 and insert chapter 505 with seven new sections; subsection (b) which would provide conforming amendments; and subsection (c) which would specify the effective date for a reduction in the number of personnel assigned to the Office of the Chief of Naval Operations.

Subsection (a) of section 302 of this bill would insert the following new sections:

Sec. 5031. Office of the Chief of Naval Operations
Sec. 5032. Office of the Chief of Naval Operations: general duties
Sec. 5033. Chief of Naval Operations: appointment; term of office; powers and duties
Sec. 5034. Chief of Naval Operations: retirement
Sec. 5035. Vice Chief of Naval Operations: appointment; powers and duties; succession to duties of Chief of Naval Operations
Sec. 5036. Deputy Chiefs of Naval Operations: detail; duties
Sec. 5037. Assistant Chiefs of Naval Operations: detail; duties

Neither the Office of the Chief of Naval Operations nor its general duties are established in law. Section 5031 would establish the office in law, and section 5032 would prescribe its general duties. These two sections would be consistent with sections 3031 and 3032 relating to the Army Staff.

Subsection (d) of section 5031 would place personnel limitations on the Office of the Chief of Naval Operations. Paragraph (1) would require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Chief of Naval Operations. The Committee believes that this reduction would be made possible by the elimination of duplication between the Office of the Chief of Naval Operations and the Office of the Secretary of the Navy and between the Office of the Chief of Naval Operations and the Joint Staff. Paragraph (2) would provide that not more than 1,300 Navy and Marine Corps officers may be assigned or detailed to permanent duty in the Office of the Chief of Naval Operations beginning on September 30, 1988. Unlike the Army and Air Force, there are presently no limitations on the number of officers assigned to the top management headquarters of the Department of the Navy. The 1,300-officer limitation would enable 75 percent of the positions in the Office of the Chief of Naval Operations to be filled with military officers. The current percentage of military officers in these positions is about 65 percent.

Section 5033 would specify the appointment, term of office, and powers and duties of the Chief of Naval Operations. Section 5033 would be consistent with section 3033 dealing with the Chief of Staff of the Army. Notable among the proposed changes is the second sentence of subsection (b) of section 5033, which would provide that, in the performance of his duties within the Department of the Navy, the Chief of Naval Operations would take precedence above all other officers of the naval service. This provision would mean that the Chief of Naval Operations would take precedence over the Commandant of the Marine Corps with respect to duties within the Department of the Navy. However, with respect to duties as members of the Joint Chiefs of Staff, these two officers would rank according to their dates of appointment to those offices as provided in section 743 of title 10 (as amended by subsection (b) of section 111 of this bill).

In addition, subsection (d) of section 5081—the current section dealing with the Chief of Naval Operations—would not be retained. That subsection designates the Chief of Naval Operations as the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war. This anachronistic designation predates the creation of the Joint Chiefs of Staff and should be repealed.

In addition, sections 5082 (Chief of Naval Opertions: coordinating duties) and 5084 (Chief of Naval Operations: quarters) would be struck from the law. Section 5082 makes inappropriate references to the coordination of military operations which is not a duty of the Chief of Naval Operations. Section 5084 provides that the Chief of Naval Operations may be assigned the public quarters at the United States Naval Observatory. As these quarters are now assigned to the Vice President, this section should be repealed.

Section 5034 would specify without amendment the retirement of the Chief of Naval Operations now provided in section 5083.

Section 5035 would specify the appointment and powers and duties of the Vice Chief of Naval Operations and the succession to the duties of the Chief of Naval Operations. This section would be consistent with section 3035 dealing with the Vice Chief of Staff of the Army.

Section 5036 would specify the detail and duties of the Deputy Chiefs of Naval Operations. The only amendment to current section 5086 dealing with these officers would be a reduction from six to four in the authorized number of Deputy Chiefs of Naval Operations. This bill would authorize not more than four Deputy Chiefs of Staff in each Service.

Section 5037 would specify the detail and duties of the Assistant Chiefs of Naval Operations. Currently, the number of Assistant Chiefs of Naval Operations is not limited. Section 5037 would specify that there may not be more than three Assistant Chiefs of Naval Operations. This bill would authorize not more than three Assistant Chiefs of Staff in each Service. Section 5037 would also provide that the duties of the Assistant Chiefs of Naval Operations shall be prescribed by the Secretary of the Navy instead of the Chief of Naval Operations.

Subsection (b) of section 302 of this bill would provide conforming amendments. Subsection (c) would specify the effective date for the personnel limitations specified in section 5031(d) for the Office of the Chief of Naval Operations.

SEC. 303. HEADQUARTERS, MARINE CORPS

Section 303 of this bill would amend chapter 515 of title 10 to establish the Headquarters, Marine Corps, in law and to specify its duties; to clarify the powers and duties of the Commandant and Assistant Commandant of the Marine Corps; and to strike sections 5203 and 5204 dealing with the detail of the Director of Personnel and the Quartermaster General, respectively.

Subsection (a) of section 301 of this bill would provide four new sections:

Sec. 5201. Headquarters, Marine Corps
Sec. 5202. Headquarters, Marine Corps: general duties
Sec. 5203. Commandant of the Marine Corps: appointment; term of office; powers and duties
Sec. 5204. Assistant Commandant of the Marine Corps: appointment; powers and duties; succession to duties of Commandant

Neither the Headquarters, Marine Corps, nor its general duties are established in law. Section 5201 would establish the headquarters in law, and section 5202 would prescribe its general duties. These two sections would be consistent with sections 3031 and 3032 relating to the Army Staff.

Subsection (b) of section 5201 would limit the Headquarters, Marine Corps, to not more than four Deputy Chiefs of Staff and to not more than three Assistant Chiefs of Staff. Currently, the number of such officers is not limited. At present, the Headquarters, Marine Corps, has eight Deputy Chiefs of Staff.

Subsection (d) of section 5201 would place personnel limitations on the Headquarters, Marine Corps. Paragraph (1) would require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty in the Headqarters, Marine Corps. The Committee believes that this reduction would be made possible by the elimination of duplication between the Headquarters, Marine Corps, and the Office of the Secretary of the Navy and between the Headquarters, Marine Corps, and the Joint Staff. Paragraph (2) would provide that not more than 325 Marine Corps and Navy officers may be assigned or detailed to permanent duty in the Headquarters, Marine Corps, beginning on September 30, 1988. Unlike the Army and Air Force, there are presently no limitations on the number of military officers assigned to the top management headquarters of the Department of the Navy. The 325-officer limitation would enable 75 percent (about the current percentage) of the positions in the Headquarters, Marine Corps, to be filled with military officers.

Section 5203 concerning the Commandant of the Marine Corps and section 5204 concerning the Assistant Commandant would specify the appointment, powers and duties of these officers, and the succession to the duties of the Commandant so that they are consistent with those provided for other Service Chiefs and Vice Chiefs of Staff.

The current section 5203 concerning the Director of Personnel and the current section 5204 dealing with the Quartermaster General would be struck from the law. The Committee believes that, if these positions are required, they do not need to be specified in law.

SEC. 304. COMPOSITION OF THE DEPARTMENT OF THE NAVY

Section 304 of this bill would amend part I of subtitle C of title 10 to insert a new chapter 518 (Composition of the Department of the Navy) with three sections:

Sec. 5241. Department of the Navy: composition
Sec. 5242. United States Navy: composition; functions
Sec. 5243. United States Marine Corps: composition; functions

Section 5241 would continue to specify, with technical amendments, the composition of the Department of the Navy now specified by the third and fourth sentences of the current section 5011. Sections 5242 and 5243 would specify, without amendment, the composition and functions of the Department of the Navy and United States Marine Corps, respectively, as they are now specified in the current sections 5012 and 5013.

Title IV—Air Force

Title IV of this bill would amend the statutes governing the organization of the Air Force to make them, with a limited number of exceptions, consistent with those, as amended by this bill, that govern the organization of the Army and Navy and Marine Corps. In light of this fact and the existing similarity between Army and Air Force statutes, the section-by-section analysis of title IV will not repeat information contained in the analysis of title II. Instead, only differences will be highlighted.

SEC. 401. DEPARTMENT OF THE AIR FORCE

Section 401 of this bill would amend chapter 803 of title 10 dealing with the Department of the Air Force to reorganize the chapter; to establish the Office of the Secretary of the Air Force in law; to clarify the powers and duties and responsibilities of certain officials, especially the Secretary of the Air Force; and to establish the position of Inspector General of the Air Force in law. Section 401 has three subsections. Subsection (a) is the major portion of the section while subsection (b) provides conforming amendments and subsection (c) provides an effective date for the personnel limitation on the Office of the Secretary of the Air Force.

In terms of reorganizing chapter 803, section 401 would:

redesignate sections 8010 (Organization) and 8011 (Department of the Air Force: seal) as sections 8011 and 8012, respectively, without amending the sections;

strike out section 8012 and insert in lieu thereof a new section 8013 (Secretary of the Air Force: appointment; powers and duties; delegation authority);

strike out section 8013 and insert in lieu thereof a new section 8015 (Under Secretary of the Air Force: appointment; powers and duties);

strike out section 8014 (Comptroller of the Air Force: appointment; functions);

add a new section 8014 (Office of the Secretary of the Air Force);

add a new section 8016 (Assistant Secretaries of the Air Force: appointment; powers and duties);

add a new section 8018 (Inspector General of the Air Force: detail; duties);

strike out section 8019 (Office of Air Force Reserve: appointment of Chief); and

redesignate section 8033 (Reserve components of Air Force: policies and regulations for government of; functions of National Guard Bureau with respect to Air National Guard), now part of chapter 805, as section 3019 and transfer it to chapter 803.

Chapter 803 of title 10, which is amended by section 401 of this bill, deals primarily with the Secretary of the Air Force and the offices and officers that comprise the Office of the Secretary of the Air Force. In the reorganization of the chapter, all sections of the Air Force statutes dealing with these offices and officers are placed in chapter 803 and those dealing with other Air Force organizations are deleted and reenacted elsewhere. In particular, section 8019 (Office of Air Force Reserve) is deleted from the chapter because it is part of the Air Staff. Likewise, section 8033 (Reserve components of Air Force) of chapter 805 dealing with the Air Reserve Forces Policy Committee is transferred to chapter 803.

The striking out of current section 8014 would mean that the position of Comptroller of the Air Force would no longer be established by law. The Committee believes that this official, if he is required, does not need to be specified in law. Striking this section does not mean to prohibit the Secretary of the Air Force from continuing to designate this position.

Beyond these changes, three newly created sections would be added to chapter 803. Section 8014 would establish the Office of the Secretary of the Air Force in law. Section 8016 would provide a separate section for the Assistant Secretaries of the Air Force. The Assistant Secretaries and the Under Secretary of the Air Force are currently included in a single section (existing section 8013). The third section that would be added is section 8018 dealing with the Inspector General of the Air Force. The Committee recommends that the Inspector General be designated as part of the Office of the Secretary of the Air Force. The Inspector General can assist the Secretary of the Air Force in carrying out his responsibilities to provide effective civilian control of the Department of the Air Force. For this reason, the Committee believes that the Inspector General should be directly subordinated to the Secretary of the Air Force.

Beyond these reorganizational changes, section 401 would make substantial amendments to current prescriptions for the Secretary of the Air Force and the offices and officers of the Office of the Secretary of the Air Force. These changes are identical to those made by section 201 of title II of this bill with respect to the Army and will not be repeated here. Three items of particular interest, however, will be highlighted. First, subsection (c) of section 8014 would require the Secretary of the Air Force to ensure that the Office of the Secretary of the Air Force does not duplicate specific functions for which the Air Staff has been assigned responsibility. While recommending this elimination of duplication, the Committee does see a continuing need for the General Counsel of the Air Force as a key assistant to the Secretary of the Air Force, particularly on sensitive matters directly related to civilian control of the military. Second, subsection (d) of section 8014 would require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Secretary of the Air Force. Third, section 8016 would continue to authorize three Assistant Secretaries of the Air Force and to specify the title and duties of the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

SEC. 402. THE AIR STAFF

Section 402 of this bill would amend chapter 805 dealing with the Air Staff to reorganize the chapter and to clarify the powers and duties of certain officers and offices. The nine subsections of section 402 deal with the following: (a) composition of the Air Staff; (b) general duties of the Air Staff; (c) Chief of Staff; (d) Vice Chief of Staff; (e) Deputy Chiefs of Staff; (f) Judge Advocate General, Deputy Judge Advocate General; (g) Office of the Air Force Reserve; (h) conforming amendments; and (i) effective date of personnel limitations on the Air Staff.

The changes to the Air Staff that would be made by section 402 of this bill are, with limited exceptions, identical to those for the Army Staff that would be provided by section 202 of this bill. Therefore, the descriptions and rationale for such changes will not be repeated here.

One difference is that section 402 would redesignate section 8072 (Judge Advocate General, Deputy Judge Advocate General: appointment; duties), now part of chapter 807, as section 8037 and transfer it to chapter 805. As the Judge Advocate General and Deputy Judge Advocate General are part of the Air Staff, they are more appropriately included in chapter 805 dealing with the Air Staff.

Beyond this difference, three items of interest will be highlighted. First, subsection (b) of section 8031, which specifies the composition of the Air Staff, would be amended to reduce the number of authorized Deputy Chiefs of Staff from five to four. In addition, not more than three Assistant Chiefs of Staff would be authorized. Currently, the number of Assistant Chiefs of Staff of the Air Force is not limited.

Second, paragraph (1) of subsection (d) of section 8031 would require a 15-percent reduction by September 30, 1988 in the number of military and civilian personnel assigned or detailed to permanent duty to the Air Staff. This reduced level would then become a permanent personnel ceiling. This limitation would not, however, apply in time of war or during a national emergency declared by the Congress. The Committee believes that this 15-percent personnel reduction would be made possible by the elimination of duplication of effort between the Air Staff and the Office of the Secretary of the Air Force and between the Air Staff and the Joint Staff.

Third, paragraph (2) of subsection (d) would continue limitations, now provided by the current subsection (c), on the number of Air Force officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and the Air Staff. The limitation of the current subsection (c) applies to officers assigned or detailed to permanent duty in the executive part of the Department of the Air Force. Because the executive part of the Department is not precisely defined, the Committee believes that the Office of the Secretary of the Air Force and the Air Staff should be used instead. The total number of officers that could be assigned to these two organizations would be reduced from 2,800 to 1,575 as of September 30, 1988. The limit of 1,575 officers represents 60 percent (about the current percentage) of the total personnel that could be assigned to the Office of the Secretary of the Air Force and the Air Staff. This limitation would not, however, apply in time of war or during a national emergency declared by the Congress or whenever the President finds that it is in the national interest to increase the number of such assigned officers. The effective date of paragraphs (1) and (2) of subsection (d) appears as subsection (i) of section 402 of this bill.

SEC. 403 COMMANDS

Section 403 of this bill would amend subsection (a) of section 8074 of chapter 807 to provide that the Secretary of the Air Force's authority to divide the Air Force into organizations may be limited by law or the Secretary of Defense.

Title V—General Provisions and Effective Date

SEC. 501. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES

Section 501 of this bill, a free-standing provision of law, would require reductions in the total number of military and civilian personnel assigned in certain management headquarters activities and management headquarters support activities. Paragraph (1) of subsection (a) would require at least a 10-percent reduction by September 30, 1988 in the total number of military and civilian personnel assigned or detailed to permanent duty to perform management headquarters activities and management headquarters support activities, as defined by subsection (f) of section 501 of this bill, in the Military Departments and the unified and specified combatant commands. Paragraph (2) would provide that these reductions would not apply to the top management headquarters of the Military Departments: the Offices of the Secretaries of the Army, Navy, and Air Force; the Army Staff; the Office of the Chief of Naval Operations; the Headquarters, Marine Corps; and the Air Staff. These headquarters are excluded because they would be reduced by provisions in the titles of this bill on the Army, Navy, and Air Force.

The Committee believes that too many personnel are assigned to management activities in the Military Departments and combatant commands. Some management functions could be eliminated altogether or, at least, reduced in scope; others could be performed by fewer personnel. If these reductions in functions and personnel are made carefully (instead of in a sweeping, across-the-board manner), they should result in streamlined administrative and operational chains of command. In addition, the focus of these management activities—actual operating and fighting units—should be strengthened by the personnel reassigned from administrative and overhead functions. To enable the Defense Department to implement these personnel changes in an orderly and deliberate procedure, the Committee recommends that the limitation on personnel not be effective for more than 2 years.

Paragraph (1) of subsection (b) would provide that the Secretary of Defense would allocate the reductions of personnel required by subsection (a) among the management headquarters activities and management headquarters support activities of the Military Departments and combatant commands. At his discretion, the Secretary may allocate more than a 10-percent reduction to certain activities and less than a 10-percent reduction, no reduction, or an increase in personnel to other activities. The Secretary would be required to meet only the overall 10-percent reduction. Paragraph (2) would also authorize the Secretary of Defense to consolidate and eliminate any unnecessary management headquarters activities and management headquarters support activities.

Subsection (c) would prohibit the accomplishment of this reduction by recategorizing or redefining duties, functions, offices, or organizations. It is the Committee's intent that these personnel reductions be achieved through the careful review of personnel needs and not by the transfer of personnel performing the same functions to new or existing organizations that would not be affected by this reduction. The Committee does not intend, however, to preclude any internal reorganizations that would result in the more efficient use of personnel.

Subsection (d) would authorize the commander of a unified or specified combatant command, after consultation with his directly subordinated commanders, to determine the manner in which reductions allocated to his combatant command by the Secretary of Defense shall be accomplished. Consistent with the authority that would be provided by subsection (c) of section 163 of title 10 (as added by subsection (a) of section 112 of this bill) for combatant commanders to organize their commands, the Committee believes that the combatant commanders should allocate the personnel reductions within their commands. The President and the Secretary of Defense would retain the authority to override any proposed allocation of reductions by a combatant commander.

Subsection (e) would prohibit future increases in the total number of personnel assigned to these management headquarters activities and management headquarters support activities in the Military Departments and combatant commands beyond the reduced level to be achieved by September 30, 1988. Once this personnel reduction is achieved, it is the Committee's recommendation that it would become a permanent personnel ceiling for these activities.

SEC. 502. ANNUAL REPORT ON NATIONAL SECURITY STRATEGY

Section 502 of this bill, a free-standing provision of law, would require an annual report on national security strategy. Subsection (a) would require the President to submit to the Senate Committees on Armed Services and Foreign Relations and the House Committees on Armed Services and Foreign Affairs each year a comprehensive written report on the national security strategy of the United States. This report would be submitted on the same date each year on which the President submits the budget to Congress.

Subsection (b) would specify the contents of this report. Subsection (c) would require the submission of both classified and unclassified versions of the President's report on national security strategy.

The Committee believes that a report on national security strategy will provide an extremely useful framework for the work of the authorizing committees dealing with national defense and foreign policy. Currently, these committees lack a comprehensive context in which to evaluate the authorization requests and policy recommendations of the Administration. Moreover, the absence of a clear statement of national security strategy denies the Congress the opportunity to participate in the setting of policies and objectives for national defense.

Military strategy is but one, albeit the most visible, element of U.S. national security strategy. A comprehensive national security strategy also includes diplomatic and political components, including arms control initiatives; economic components covering trade, international investment, and technology transfer controls; international economic and security assistance programs; and information programs designed to promote international awareness of key events and American policies. The Committee believes that the work of the Congress would be more effective if it received a coordinated, comprehensive description of the role of these various components in the national security strategy of the United States.

SEC. 503. WAIVER OF CERTAIN REPORTING, NOTIFICATION, AND STUDY REQUIREMENTS

Section 503 of this bill, a free-standing provision of law, would waive the requirements for a substantial number of defense reports, notifications, and studies to be submitted to the Congress. Currently, either the President or the Department of Defense is required by titles 10 (Armed Forces) and 37 (Pay and Allowances of the Uniformed Services) and by various DoD authorization and appropriations Acts to submit 403 recurring reports, notifications, and studies to the Congress. (There are 55 additional defense reporting requirements specified in other provisions of law that are not under the jurisdiction of the Committee.) The Committee believes that this burden of congressional oversight is excessive and diverts DoD's attention away from high priority responsibilities.

As part of its work on this bill, the Committee conducted a comprehensive review of these congressional reporting requirements. After focusing on information essential for effective congressional oversight, the Committee concludes that a substantial number of the current reporting requirements under its jurisdiction are of limited utility and do not justify their costs.

Subsection (a) of section 503 would waive, subject to the exceptions specified in subsection (b), the requirements for all reports, notifications, and studies to be submitted to the Congress by the President or any DoD official or employee under provisions of title 10, title 37, or any DoD authorization or appropriation Act. Subsection (a) would be effective on January 1, 1987. Section 503 of this bill would not apply to current or future reports, notifications, and studies required by joint explanatory statements of conference reports or by committee reports. The requirements of such statements and reports are normally limited to one-time submissions.

Subsection (b) of section 503 would provide that subsection (a) would not apply to any provision of law enacted on or after the date of enactment of this bill. In addition, subsection (b) would exempt 76 current provisions of law that require the submission of certain reports, notifications, and studies. The exempted provisions of law equate to 135 of the current reporting requirements. As a result, the Committee recommends that 268 reporting requirements, or two-thirds of the current total, be waived.

SEC. 504. EFFECTIVE DATE

Section 504 of this bill would specify the effective date of this bill, the Department of Defense Reorganization Act of 1986. Section 504 would provide that the provisions of this bill and the amendments made by this bill, except as otherwise provided in this bill, shall take effect on such date or dates as the Secretary of Defense may specify. However, section 504 would require that the effective date or dates specified by the Secretary of Defense may not be later than 180 days after the date of enactment of this bill. The Committee believes that the Secretary of Defense should have flexibility in managing the implementation of the provisions of this bill. Some provisions could be implemented immediately; others would require some preparatory work.

Committee Action

On March 6, 1986, the Committee on Armed Services, a quorum being present, agreed to report this bill, S. 2295, by a vote of 19 to 0.

Fiscal Data

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause (1) of paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate prepared by the Congressional Budget Office and submitted pursuant to section 403 of the Congressional Budget Act of 1974 is included below:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 8, 1986.

Hon. Barry Goldwater,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed a bill to reorganize and strengthen certain elements of the Department of Defense as ordered reported by the Senate Armed Services Committee on March 6, 1986.

This bill would reorganize the Department of Defense including the Office of the Secretary of Defense, defense agencies and field activities, the Joint Chiefs of Staff, combatant commands, and military departments. It would mandate reductions of 17,694 in civilian and military personnel assigned to defense agencies and headquarters positions. Also, Department of Defense reporting requirements to the Congress would be reduced.

Although staff sizes and reporting requirements are reduced by this bill, CBO does not know if Defense Department costs would, in fact, decline. For example, there is no indication that personnel ceilings, established in annual authorization bills, would be reduced accordingly. It is assumed, therefore, that overall costs for the Department of Defense would be unchanged, and that there would be no costs to state and local governments.

Sincerely,

RUDOLPH G. PENNER.

COMMITTEE COST ESTIMATE

The Committee concurs in the Congressional Budget Office cost estimate.

REGULATORY IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report accompanying such bill. The Committee finds that in the case of S. 2295, the Department of Defense Reorganization Act of 1986, there is no regulatory impact.

SUMMARY OF CHANGES MADE BY THE BILL TO EXISTING LAW

I. TITLE I

A. The following sections of title 10, United States Code, would be redesignated by title I of the bill:

Present section	New section	Notes
124(a)	162(a)	Repeal and reenactment, with revisions.
124(b) (1st sentence)	162(b) (1) and (2)	Repeal and reenactment, with revisions.
124(b) (2d sentence)	164(d)	Repeal and reenactment.
124(b) (3d sentence)	162(b)(3)	Repeal and reenactment.
124(c)(1)	162(c)	Repeal and reenactment.
124(c)(2)	163(d)(2)	Repeal and reenactment, with revisions.
124(d)	165 (a) and (b)	Repeal and reenactment, with revisions.
125(d)	191(a)	Repeal and reenactment, with revisions.
133a	142	Redesignation.
133b	2780	Redesignation.
134	135	Redesignation.
135	136	Redesignation, with revisions.
136 (except (d))	137	Redesignation, with revisions.
136(d)	134(d)	Repeal and reenactment, with revisions.
136a	139	Redesignation.
137	140	Redesignation.
138	2871	Redesignation.
139	2872	Redesignation.
139a	2873	Redesignation.
139b	2874	Redesignation.
139c	2875	Redesignation.

Present section	New section	Notes
140	143	Redesignation.
140a	144	Redesignation.
140b	145	Redesignation.
140c	146	Redesignation.
141 (except (c))	151	Redesignation, with revisions.
141(c)	152(d)	Redesignation, with revisions.
142	152	Redesignation, with revisions.
143	154	Redesignation, with revisions.
191	195	Redesignation.
192	196	Redesignation.
718	134(c)	Repeal and reenactment.

B. The following sections of title 10, United States Code, would be repealed by title I of the bill:

1. 124(b) (4th sentence)
2. 135(a) (3rd sentence)
3. 141(b)(3)

C. The following provisions of law not in title 10, United States Code, would be repealed by title I of the bill:

1. Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747)
2. Section 8106 of the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the Joint Resolution entitled "Joint Resolution making further continuing appropriations for fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190; 99 Stat. 1221)

II. TITLE II

A. The following sections of title 10, United States Code, would be redesignated by title II of the bill:

Present section	New section	Notes
3010	3011	Redesignation.
3011	3012	Redesignation.
3012(a)-(b)	3013(a)-(e)	Repeal and reenactment, with revisions.
3012(c)	3013(f)	Repeal and reenactment, with revisions.
3012(e)	3013(g)	Repeal and reenactment, with revisions.
3012(f)	3013(h)	Repeal and reenactment, with revisions.
3012(g)	3013(i)	Repeal and reenactment.
3013 (Under Secretary)	3015	Repeal and reenactment, with revisions.
3013 (Assistant Secretaries)	3016	Repeal and reenactment, with revisions.
3015	3041	Repeal and reenactment.
3019	3038	Repeal and reenactment.
3033	3019	Redesignation, with revisions.
3034	3033	Redesignation, with revisions.
3035 (Vice Chief of Staff) [1]	3034	Redesignation, with revisions.
3039 (Inspector General) [2]	3018	Repeal and reenactment, with revisions.

[1] The provisions of section 3035 relating to the Deputy and the Assistant Chiefs of Staff remain in section 3035 as revised.

[2] The provisions of section 3039 relating to the Provost Marshal General remain in section 3039 as revised.

B. The following sections of title 10, United States Code, would be repealed by title II of the bill:

1. 3014
2. 3016

III. TITLE III

A. The following sections of title 10, United States Code, would be redesignated by title III of the bill:

Present section	New section	Notes
5011 (part)	5241	Repeal and reenactment, with revisions.
5012	5242	Repeal and reenactment, with revisions.
5013	5243	Repeal and reenactment.
5031 (part)	5013	Repeal and reenactment, with revisions.
5031 (part)	7861	Repeal and reenactment, with revisions.
5032	5013a	Repeal and reenactment.
5033	5015	Repeal and reenactment, with a minor revision.
5034	5016	Repeal and reenactment, with a minor revision.
5036	5017	Repeal and reenactment, with revisions.
5081	5033	Repeal and reenactment, with revisions.
5083	5034	Repeal and reenactment, with a minor technical change.
5085	5035	Repeal and reenactment, with revisions.
5086	5036	Repeal and reenactment, with revisions.
5087	5037	Repeal and reenactment, with revisions.
5088	5018	Redesignation, with a minor revision.
5150	5019	Redesignation.
5151	5020	Redesignation.
5152	5021	Redesignation.
5153	5022	Redesignation.
5155	5150	Redesignation.
5201	5203	Repeal and reenactment, with revisions.
5202	5204	Repeal and reenactment, with revisions.
7861	7862	Redesignation.
7862	7863	Redesignation.

B. The following sections of title 10, United States Code, would be repealed by title III of the bill:

1. 5061
2. 5063
3. 5064
4. 5082
5. 5084
6. 5203
7. 5204

IV. TITLE IV

A. The following sections of title 10, United States Code, would be redesignated by title IV of the bill:

Present section	New section	Notes
8010	8011	Redesignation.
8011	8012	Redesignation.
8012	8013	Repeal and reenactment, with revisions.
8012(b) (part)	8013 (b) and (c)	Repeal and reenactment, with revisions.
8012(b) (part)	8013(d)	Repeal and reenactment, with revisions.
8012(b) (part)	8013(e)	Repeal and reenactment, with a minor change.
8012(c)	8013(f)	Repeal and reenactment, with revisions.
8013 (Under Secretary)	8015	Repeal and reenactment, with revisions.
8013 (Assistant Secretaries)	8016	Repeal and reenactment, with revisions.
8019	8038	Repeal and reenactment.
8031(b)	8031(c)	Redesignation.
8031(c)	8031(d)(2)	Redesignation.

Present section	New section	Notes
8033	8019	Repeal and reenactment, with revisions in subsection (a).
8034	8033	Redesignation, with revisions.
8035(a) (Vice Chief of Staff)	8034(a)	Redesignation, with revisions.
8035(a) (Deputy and Assistant Chiefs of Staff).	8036	Repeal and reenactment, with revisions.
8035 (b) and (c)	8034(d)	Redesignation, with substantial revisions.
8035(d)	8034(c)	Redesignation.
8072	8037	Redesignation.

B. The following section of title 10, United States Code, would be repealed by title IV of the bill:

1. 8014

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing laws proposed to be made by the bill are shown as follows: existing law to be omitted is enclosed in black brackets; new matter is printed in italic; and existing law in which no change is proposed is shown in roman.

TITLE 10—ARMED FORCES

Subtitle A—GENERAL MILITARY LAW

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

* * * * * * *

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PART I—ORGANIZATION AND GENERAL MILITARY POWERS

Chap.		Sec.
1.	Definitions	101
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Chap.		Sec.
4.	Department of Defense	131
5.	Joint Chiefs of Staff	[141] *151*
6.	*Combatant Commands*	*161*
7.	Boards, Councils, and Committees	171
8.	Defense Agencies *and Department of Defense Field Activities*	191
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13.	The Militia	311
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CHAPTER 3—GENERAL POWERS

Sec.
121. Regulations.
122. Official registers.
123. Suspension of certain provisions of law relating to reserve commissioned officers.
[124. Combatant command; establishment; composition; functions; administration and support.]
125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition.
126. Transfer of funds and employees.

* * * * * * *

[§ 124. Combatant commands: establishment; composition; functions; administration and support

[(a) With the advice and assistance of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

[(1) establish unified combatant commands or specified combatant commands to perform military missions; and

[(2) prescribe the force structure of those commands.

[(b) The military departments shall assign forces to combatant commands established under this section to perform the missions of those commands. A force so assigned is under the full operational command of the commander of the command to which it is assigned. It may be transferred from the command to which it is assigned only by authority of the Secretary and under procedures prescribed by the Secretary with the approval of the President. A force not so assigned, remains, for all purposes, in the military department concerned.

[(c)(1) Combatant commands established under this section are responsible to the President and to the Secretary for such military missions as may be assigned to them by the Secretary with the approval of the President.

[(2) Subject to the authority, direction, and control of the Secretary, the Chairman acts as the spokesman for the commanders of the combatant commands on operational requirements.

[(d) Subject to the authority, direction, and control of the Secretary, each military department is responsible for the administration of forces assigned by that department to combatant commands established under this section. The Secretary shall assign the responsibility for the support of forces assigned to those commands to one or more of the military departments.]

(NOTE: Section 124 is relocated to new chapter 6 with changes.)

§ 125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition

(a) Subject to section 2 of the National Security Act of 1947 (50 U.S.C. 401), the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished [unless the Secretary reports the details of the proposed transfer, reassignment, consolidation, or abolition to the Committees on Armed Services of the Senate and House of Representatives. The transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of the first 30 days that Congress is in continuous session after the Secretary so reports, unless either of those Committees, within that period, reports a resolution recommending that the proposed transfer, reassignment, consolidation, or abolition be rejected by the Senate or the House of Representatives, as the case may be, because it—

[(1) proposes to transfer, reassign, consolidate, or abolish a major combatant function, power, or duty assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5012, 5013, or 8062(c) of this title; and

[(2) would, in its judgment, tend to impair the defense of the United States.

If either of those Committees, within that period, reports such a resolution and it is not adopted by the Senate or the House of Representatives, as the case may be, within the first 40 days that Congress is in continuous session after that resolution is so reported, the transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of that forty-day period. For the purposes of this subsection, a session may be considered as not continuous only if broken by an adjournment of Congress sine die. However, in computing the period that Congress is in continuous session, days that the Senate or the House of Representatives is not in session because of an adjournment of more than three days to a day certain are not counted].

(b) Notwithstanding subsection (a), if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty *vested by law in the Department of Defense, or an officer, official, or agency thereof,* including one assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), [5012, 5013] *5242, 5243,* or 8062(c) of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.

(c) Notwithstanding subsection (a), the Secretary of Defense may assign or reassign the development and operational use of new weapons or weapons systems to one or more of the military departments or one or more of the armed forces. However, notwithstanding any other provision of this title or any other law, the Secretary of Defense shall not direct or approve a plan to initiate or effect a substantial reduction or elimination of a major weapons system until the Secretary of Defense has reported all the pertinent details of the proposed action to the Congress of the United States while the Congress is in session.

[(d) In subsection (a)(1), "major combatant function, power, or duty" does not include a supply or service activity common to more than one military department. The Secretary of Defense shall, whenever he determines it will be more effective, economical, or efficient, provide for the performance of such an activity by one agency or such other organizations as he considers appropriate.]

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CHAPTER 4—DEPARTMENT OF DEFENSE

Sec.
131. Executive department.
132. [Seal.] *Department of Defense: seal.*
133. Secretary of Defense: appointment; powers and duties; delegation [by] *authority.*
[133b. Sale or transfer of defense articles: reports to Congress.]
134. Office of the Secretary of Defense.
[134] *135.* Deputy Secretary of Defense: appointment; powers and duties; precedence.
[135] *136.* Under Secretaries of Defense: appointment; powers and duties; precedence.
[136] *137.* Assistant Secretaries of Defense: appointment; powers and duties; precedence.
138. Comptroller of the Department of Defense.
[136a] *139.* Director of Operational Test and Evaluation: appointment; powers and duties.
[137] *140.* General Counsel: appointment; powers and duties.
141. Inspector General of the Department of Defense.
[133a] *142.* Secretary of Defense: annual report on North Atlantic Treaty Organization readiness.
[138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.]
[139. Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports.]
[139a. Oversight of cost growth in major programs; Selected Acquisition Reports.]
[139b. Oversight of cost growth in major programs: unit cost reports.]
[139c. Major defense acquisition programs: independent cost estimates.]
[140] *143.* Emergencies and extraordinary expenses.
[140a] *144.* Secretary of Defense: funds transfers for foreign cryptologic support.
[140b] *145.* Prohibition of certain civilian personnel management constraints.
[140c] *146.* Secretary of Defense: authority to withhold from public disclosure certain technical data.

§ 131. Executive department

The Department of Defense is an executive department of the United States. *It is composed of the following:*

(1) The Office of the Secretary of Defense.
(2) The Joint Chiefs of Staff.
(3) The Joint Staff.
(4) The Defense Agencies.
(5) Department of Defense Field Activities.
(6) The Department of the Army.

(7) The Department of the Navy.

(8) The Department of the Air Force.

(9) The unified and specified combatant commands of the Department of Defense.

(10) Such other officers as may be established or designated by the President.

(11) All functions and activities under the control or supervision of any element named in clauses (1) through (10).

§ 132. **[Seal]** *Department of Defense: seal*

* * * * * * *

§ 133. Secretary of Defense: appointment; powers and duties; delegation [by] *authority*

(a) There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Secretary of Defense within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Secretary is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 401), he has authority, direction, and control over the Department of Defense.

(c) The Secretary shall report annually in writing to the President and the Congress on the expenditures, work, and accomplishments of the Department of Defense during the period covered by the report, together with—

(1) a report from each military department on the expenditures, work, and accomplishments of that department;

(2) itemized statements showing the savings of public funds, and the eliminations of unnecessary duplications, made under [section 125] *sections 125 and 191* of this title;

(3) a report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense, including a review of the effectiveness of chapters 51, 337, 361, 363, 549, 573, 837, 861, and 863 of this title, as far as they apply to reserve officers; and

(4) such recommendations as he considers appropriate.

(d) Unless specifically prohibited by law, the Secretary may, without being relieved of his responsibility, perform any of his functions or duties, or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Department of Defense as he may designate.

(e) After consulting with the Secretary of State, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives before February 1 of each year a written report on—

(1) the foreign [policy and] *policy, major military missions, and* military force structure for the next fiscal year;

(2) the relationship of [that] *such* policy, *missions,* and structure to each other; and

(3) the justification for [the policy and] *such policy, missions, and* structure.

(f) When a vacancy occurs in an office within the Department of Defense and the person appointed to that office is to be appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by an appointee to carry out effectively the duties and responsibilities of that office.

(g) The Secretary of Defense, with the approval of the President, shall provide annually to the Chairman of the Joint Chiefs of Staff written policy guidance for the preparation and review of contingency plans.

(h) The Secretary of Defense shall keep the Secretaries of the Army, Navy, and Air Force informed on military operations and activities of the Department of Defense that directly affect their respective responsibilities.

§ [133b. Sale or transfer of defense articles: reports to Congress]

(NOTE: Section 133b is relocated to chapter 165 as section 2780.)

§ 134. Office of the Secretary of Defense

(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out his duties and responsibilities.

(b) The Office of the Secretary of Defense is composed of the following:

(1) The Deputy Secretary of Defense.
(2) The Under Secretaries of Defense.
(3) The Assistant Secretaries of Defense.
(4) The Comptroller of the Department of Defense.
(5) The Director of Operational Test and Evaluation.
(6) The General Counsel of the Department of Defense.
(7) The Inspector General of the Department of Defense.
(8) Such other offices and officers as the Secretary of Defense may establish or designate.

(c) Officers of the armed forces may be detailed for duty as assistants or personal aides to the Secretary of Defense. However, the Secretary may not establish a military staff other than that designated by section 151(d) of this title.

(d) The Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

§ [134] *135.* Deputy Secretary of Defense: appointment; powers and duties; precedence

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§ [135] *136.* Under Secretaries of Defense: appointment; powers and duties; precedence

(a) There are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering. The Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. [A person may not be appointed Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.]

(b)*(1)* The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) The Under Secretary of Defense for Research and Engineering shall perform such duties relating to research and engineering as the Secretary of Defense may prescribe, including—

[(1)] *(A)* being the principal adviser to the Secretary on scientific and technical matters;

[(2)] *(B)* supervising all research and engineering activities in the Department of Defense; and

[(3)] *(C)* directing, controlling, assigning, and reassigning research and engineering activities that the Secretary considers need centralized management.

(c) The Under Secretary of Defense for Policy takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments. The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.

§ [136] *137.* Assistant Secretaries of Defense: appointment; powers and duties; precedence

(a) There are eleven Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

[(2) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Health Affairs. He shall have as his principal duty the overall supervision of health affairs of the Department of Defense.

[(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Manpower and Logistics. He shall have as his principal duty the overall supervision of manpower and logistics affairs of the Department of Defense.]

[(4)] *(2)* One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.

[(5) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

[(6) One of the Assistant Secretaries shall be the Comptroller of the Department of Defense and shall, subject to the authority, direction, and control of the Secretary—

[(A) advise and assist the Secretary in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

[(B) supervise and direct the preparation of budget estimates of the Department of Defense;

[(C) establish and supervise the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

[(i) the preparation and execution of budgets;

[(ii) fiscal, cost, operating, and capital property accounting;

[(iii) progress and statistical reporting; and

[(iv) internal audit;

[(D) establish and supervise the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

[(E) establish uniform terminologies, classifications, and procedures concerning matters covered by clauses (A) through (D).]

(c) Except as otherwise specifically provided by law, an Assistant Secretary may not issue an order to a military department unless—

(1) the Secretary of Defense has specifically delegated that authority to [him] *the Assistant Secretary* in writing; and

(2) the order is issued through the Secretary of the military department concerned[, or his designee].

[(d) In carrying out subsection (c) and sections 3010, 3012(b) (last two sentences), 5011 (first two sentences), 5031(a) (the last two sentences), 8010, and 8012(b) (last two sentences) of this title, the Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.]

[(e)] *(d)* The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense. *The order of precedence among the Assistant Secretaries shall be the order prescribed by the Secretary of Defense.*

§ 138. Comptroller of the Department of Defense

(a) There is a Comptroller of the Department of Defense, appointed from civilian life.

(b) The Comptroller of the Department of Defense shall—

(1) advise and assist the Secretary in performing such budgetary and fiscal functions and duties, and in exercising such

budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

(2) supervise and direct the preparation of budget estimates of the Department of Defense;

(3) establish and supervise the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

(A) the preparation and execution of budgets;

(B) fiscal, cost, operating, and capital property accounting;

(C) progress and statistical reporting; and

(D) internal audit;

(4) establish and supervise the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(5) establish uniform terminologies, classifications, and procedures concerning matters covered by clauses (1) through (4).

§ [136a] *139.* Director of Operational Test and Evaluation: appointment; powers and duties

(a)(1) * * *

(2) In this section:

(A) * * *

(B) "Major defense acquisition program" means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section [139a(a)(1)] *2873(a)(1)* of this title or that is designated as such a program by the Director for purposes of this section.

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§ [137] *140.* General Counsel: appointment; powers and duties

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§ 141. Inspector General of the Department of Defense

(a) There is an Inspector General of the Department of Defense, who shall be appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3).

(b) The Inspector General of the Department of Defense shall perform the duties, have the responsibilities, and exercise the powers specified in the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3).

§ [133a] *142.* Secretary of Defense: annual report on North Atlantic Treaty Organization readiness

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[§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports

[§ 139. Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports

[§ 139a. Oversight of cost growth in major programs; Selected Acquisition Reports

[§ 139b. Oversight of cost growth in major programs; unit cost reports

[§ 139c. Major defense acquisition programs: independent cost estimates]

(NOTE: Sections 138 through 139c have been relocated to new chapter 171 as sections 2871 through 2875, respectively, without change (except for technical conforming amendments).)

§ [140] *143.* Emergencies and extraordinary expenses

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§ [140a] *144.* Secretary of Defense: funds transfers for foreign cryptologic support

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§ [140b] *145.* Prohibition of certain civilian personnel management constraints

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§ [140c] *146.* Secretary of Defense: authority to withhold from public disclosure certain technical data

CHAPTER 5—JOINT CHIEFS OF STAFF

Sec.
[141] *151.* Composition; functions.
[142] *152.* Chairman.
153. Vice Chairman.
[143] *154.* Joint Staff.

§ [141] *151.* Composition; functions

(a)*(1)* There are in the Department of Defense the Joint Chiefs of Staff consisting of *the following*:

[(1)] *(A)* [a Chairman;] *The Chairman.*

(B) The Vice Chairman.

[(2)] *(C)* [the] *The* Chief of Staff of the [Army;] *Army.*

[(3)] *(D)* [the] *The* Chief of Naval [Operations;] *Operations.*

[(4)] *(E)* [the] *The* Chief of Staff of the Air [Force; and] *Force.*

[(5)] *(F)* [the] *The* Commandant of the Marine Corps.

(2) The President may assign to serve as members of the Joint Chiefs of Staff only officers who have served in one or more joint duty positions for a substantial period of time. The President may

waive such requirement in the case of any officer if the President determines such action is necessary in the national interest.

[(b) The Joint Chiefs of Staff are the principal military advisers to the President, the National Security Council, and the Secretary of Defense.]

(b) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense.

[(c) Subject to the authority and direction of the President and the Secretary of Defense, the Joint Chiefs of Staff shall—

[(1) prepare strategic plans and provide for the strategic direction of the armed forces;

[(2) prepare joint logistic plans and assign logistic responsibilities to the armed forces in accordance with those plans;

[(3) establish unified commands in strategic areas;

[(4) review the major material and personnel requirements of the armed forces in accordance with strategic and logistic plans;

[(5) formulate policies for the joint training of the armed forces;

[(6) formulate policies for coordinating the military education of members of the armed forces;

[(7) provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

[(8) perform such other duties as the President or the Secretary of Defense may prescribe.]

(c) The members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, and the Secretary of Defense, as specified in this section.

(d) The Joint Chiefs of Staff, assisted by the Joint Staff, constitute the immediate military staff of the Secretary of Defense.

(e) In performing his duties, the Chairman shall—

(1) convene regular meetings of the Joint Chiefs of Staff;

(2) unless impracticable, consult with and seek the advice of, individually or collectively, the other members of the Joint Chiefs of Staff; and

(3) when appropriate, consult with and seek the advice of the commanders of the unified and specified combatant commands.

(f) When the Chairman of the Joint Chiefs of Staff provides advice to the Secretary of Defense, the National Security Council, or the President, any other member of the Joint Chiefs of Staff may submit advice or an opinion in disagreement or advice or an opinion in addition to the advice provided by the Chairman. If such member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

[(d)] *(g)* After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate.

(h) In addition to any advice or opinion submitted under subsection (f) by members of the Joint Chiefs of Staff other than the

Chairman, such members, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

§ [142] *152.* Chairman

(a)*(1)* The Chairman of the Joint Chiefs of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. He serves at the pleasure of the President for a term of two [years, and may] *years and, subject to paragraph (3), may* be reappointed in the same manner for [one additional term] *two additional terms.* However, in time of war declared by Congress there is no limit on the number of reappointments.

(2) Notwithstanding paragraph (1), the term of a Chairman shall end not later than six months after the accession to office of a new President. The requirement of the preceding sentence does not apply in the case of a Chairman appointed or reappointed during the first six months of the term of a new President. As used in this paragraph, the term "new President" shall not include a President who is elected to a second consecutive term.

(3) An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the total combined period of service of such officer in both such positions exceeds six years. The President may extend the combined period of service for such officer to eight years if he determines such action is necessary in the national interest. The limitations of this paragraph do not apply in time of war declared by Congress.

(b) In addition to his other duties as a member of the Joint Chiefs of Staff, the Chairman shall, subject to the [authority and direction] *authority, direction, and control* of the President and the Secretary of Defense—

(1) preside over the Joint Chiefs of Staff; *and*

(2) provide agenda for the meetings of the Joint Chiefs of Staff (including any subject for the agenda recommended by the Joint Chiefs of Staff), assist them in carrying on their business as promptly as practicable, and determine when issues under consideration shall be [decided; and] *decided.*

[(3) inform the Secretary of Defense, and, when the President or the Secretary of Defense considers it appropriate, the President, of those issues upon which the Joint Chiefs of Staff have not agreed.]

(c) [While holding office, the Chairman] *The Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and* outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(d) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall—

(1) prepare strategic plans to provide for the strategic direction of the armed forces, including plans which conform with resource levels projected by the Secretary of Defense;

(2) advise the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for each fiscal year conform with the priorities established in strategic plans and the operational requirements of the unified and specified combatant commands;

(3) advise the Secretary on the extent to which the major manpower programs and policies of the armed forces conform with strategic plans;

(4) provide for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense;

(5) prepare joint logistic and mobility plans to support the contingency plans and recommend the assignment of logistic and mobility responsibilities to the military departments and armed forces in accordance with such logistic and mobility plans;

(6) advise the Secretary on critical deficiencies and strengths in force capabilities, including manpower, logistic, and mobility support, identified during the preparation and review of contingency plans and assess the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans;

(7) assess joint military requirements for defense acquisition programs, especially in the area of communications, in order to enhance the ability of the armed forces to operate jointly;

(8) develop doctrine, for the approval of the Secretary of Defense, for the joint employment of the armed forces;

(9) formulate policies, for the approval of the Secretary of Defense, for the joint training of the armed forces that enhance their ability to operate jointly;

(10) formulate policies, for the approval of the Secretary of Defense, for coordinating the military education and training of the armed forces, particularly the education and training of officers who serve in joint duty positions;

(11) provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

(12) perform such other duties as the President or the Secretary of Defense may prescribe.

(e)(1) Not less than once every three years, or upon the request of the President, the Chairman shall submit a report to the Secretary of Defense containing such recommendations for changes in the function assignments of the armed forces as the Chairman considers necessary to ensure maximum effectiveness of the armed forces. In preparing each report, the Chairman shall take into consideration—

(A) changes in the nature of the threats faced by the armed forces;

(B) unnecessary duplication of effort among the armed forces; and

(C) changes in technology that can be applied effectively to warfare.

(2) The Chairman shall also include in each such report recommendations for such changes in policies, directives, regulations, and

legislation as may be necessary to achieve the changes in function assignments recommended by the Chairman.

§ 153. Vice Chairman

(a)(1) There is a Vice Chairman of the Joint Chiefs of Staff. The Vice Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the Secretary of Defense may waive the restriction in the preceding sentence for a limited period of time in order to effect the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

(3) The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war declared by Congress there is no limit on the number of reappointments.

(b)(1) The Vice Chairman exercises such duties as may be delegated by the Chairman with the approval of the Secretary of Defense.

(2) When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman, unless otherwise directed by the President or the Secretary of Defense, acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

(c) The Vice Chairman may attend all meetings of the Joint Chiefs of Staff but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.

(d) The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

§ **[**143**]** *154.* Joint Staff

(a) **[**(1) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 400 officers selected by the Chairman of the Joint Chiefs of Staff. The Joint Staff shall be selected in approximately equal numbers from—

[(A) the Army;
[(B) the Navy and the Marine Corps; and
[(C) the Air Force.**]**

(1) There is in the Department of Defense a Joint Staff under the Chairman of the Joint Chiefs of Staff. Subject to the authority, direction, and control of the Chairman, the Joint Staff shall assist the Chairman and the other members of the Joint Chiefs of Staff in carrying out their responsibilities.

(2) The Joint Staff shall include officers selected by the Chairman in approximately equal numbers from—

(A) the Army;
(B) the Navy and the Marine Corps; and
(C) the Air Force.

[(2)**]** *(3)* Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

[(3)] *(4)* The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff.

(b) The Chairman of the Joint Chiefs of Staff [in], *after* consultation with *the other members of* the Joint Chiefs of Staff [,] and with the approval of the Secretary of Defense, [shall] *may* select [the] *a* Director of the Joint Staff.

[(c) The Joint Staff shall perform such duties as the Joint Chiefs of Staff or the Chairman prescribes. The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its Director, on behalf of the Joint Chiefs of Staff.]

(c) The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman shall prescribe and shall perform such duties under such procedures as the Chairman shall prescribe.

(d) The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines to support *the Chairman and the other members of* the Joint Chiefs of Staff in discharging their assigned responsibilities.

(e)*(1)* An officer who is assigned or detailed to duty on the Joint Staff may not serve for a tour of duty of more than four years. *However, such tour of duty may be extended with the approval of the Secretary of Defense.*

(2) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary.

(3) This subsection does not apply in time of war declared by Congress or in time of national emergency declared by the President.

(f)(1) The total number of civilian and military personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,617. Such limitation does not apply in time of war or during a national emergency declared by Congress.

(2)(A) For purposes of this section, the Joint Staff includes all civilian and military personnel assigned or detailed to permanent duty to assist the Chairman and Vice Chairman in carrying out their responsibilities and to assist the other members of the Joint Chiefs of Staff in carrying out their responsibilities specified in section 151 of this title.

(B) The Joint Staff does not include civilian or military personnel assigned or detailed to permanent duty in a military department.

CHAPTER 6—COMBATANT COMMANDS

Sec.

161. Definitions.
162. Combatant commands: establishment; composition; functions.
163. Operational chain of command.
164. Commanders of combatant commands: assignment; powers and duties.
165. Combatant commands: administration and support.

§ 161. Definitions

In this chapter:

(1) "Unified combatant command" means a command which has broad, continuing missions and which is composed of combatant forces from two or more military departments.

(2) "Specified combatant command" means a command which has broad, continuing missions and which is composed of combatant forces from a single military department.

(3) "Combatant command" means a unified combatant command or a specified combatant command.

(4) "Combatant forces" means those forces of the armed forces whose primary mission is to engage in combat.

§ 162. Combatant commands: establishment; composition; functions

(a) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

(1) establish unified combatant commands and specified combatant commands to perform military missions;

(2) prescribe the force structure of those commands;

(3) review periodically, but not less often than every two years, the missions, tasks, responsibilities (including geographic boundaries), and force structure of each combatant command and revise such missions, tasks, responsibilities, and force structures as may be necessary to respond to changing conditions; and

(4) notify Congress, except during time of hostilities or imminent threat of hostilities, at least 60 days before (A) establishing a new combatant command, or (B) significantly revising the missions, tasks, responsibilities, or force structure of an existing combatant command.

(b)(1) Unless otherwise directed by the Secretary of Defense, all combatant forces of the military departments shall be assigned to combatant commands, established under this section, to perform the missions of those commands.

(2) Consistent with the force structure prescribed by the President for each combatant command, the Secretary of each military department, with the approval of the Secretary of Defense, shall assign combatant forces of his department to combatant commands.

(3) A combatant force so assigned may be transferred from the command to which it is assigned only by authority of the Secretary of Defense and only under procedures prescribed by the Secretary and approved by the President.

(c) Combatant commands established under this section are responsible to the President and to the Secretary of Defense for the performance of such military missions as may be assigned to such commands by the Secretary with the approval of the President.

§ 163. Operational chain of command

(a) Unless otherwise directed by the President, the chain of command for the operational direction of the combatant commands runs from the President to the Secretary of Defense to the commanders of the unified and specified combatant commands.

(b) Subject to the limitations of section 152(c) of this title, the President or the Secretary of Defense may direct the channel of command communications to run from the Secretary of Defense to the commanders of the unified and specified combatant commands through the Chairman of the Joint Chiefs of Staff.

(c) Unless otherwise directed by the President or the Secretary of Defense, the commander of a combatant command shall prescribe the chain of command to, and the organizational relationship among, the commands and forces within that command.

(d)(1) As a means of providing for more effective control and coordination of the combatant commands, the Secretary of Defense may assign responsibility to the Chairman of the Joint Chiefs of Staff for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the combatant commanders prescribed in section 164(b) of this title.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands on operational requirements. In performing such responsibility, the Chairman shall—

(A) confer with and obtain information from the commanders of the combatant commands about the operational requirements of their commands;

(B) evaluate and integrate such information;

(C) advise and make recommendations to the Secretary of Defense about the operational requirements of the combatant commands, individually and collectively; and

(D) perform such other activities as may be required to communicate clearly the operational requirements of the combatant commands.

§ 164. Commanders of combatant commands: assignment; powers and duties

(a) The President may assign to serve as commanders of unified combatant commands only officers who have served in one or more joint duty positions for a substantial period of time. The President may waive the requirement of the preceding sentence in the case of any officer if the President determines such action is necessary in the national interest.

(b) Each commander of a combatant command performs his duties under the authority, direction, and control of the Secretary of Defense and is directly responsible to the Secretary for the performance of his command and its preparedness to execute assigned missions.

(c) Subject to the authority, direction, and control of the Secretary of Defense, each commander of a combatant command shall—

(1) maintain the security of his command and protect the United States, its possessions, and bases against attack or hostile incursion;

(2) carry out assigned missions, tasks, and responsibilities; and

(3) assign tasks to, and direct coordination among, his subordinate commanders so as to ensure unity of effort in the accomplishment of the missions assigned to his command.

(d) Forces assigned to combatant commands are under the full operational command of the commander of the combatant command to which they are assigned. Full operational command includes—

(1) all aspects of military operations and joint training; and

(2) authority as assigned by the Secretary of Defense, after consultation with the Secretaries of the military departments and the combatant commander, for coordination and approval of those aspects of administration and support, including planning for wartime logistics, necessary for the accomplishment of the missions assigned to the command.

(e)(1) Commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the combatant commander has been assigned full operational command under subsection (d).

(2) The commander of a command or force referred to in paragraph (1) shall communicate with other elements of the Department of Defense on any matter for which the combatant commander has been assigned full operational command under subsection (d) in accordance with procedures, if any, established by the commander of the combatant command.

(3) If directed by the combatant commander, the commander of a command or force referred to in paragraph (1) shall advise the combatant commander of all communications with other elements of the Department of Defense on any matter for which the combatant commander has not been assigned full operational command under subsection (d).

(f)(1) Selection of an officer of an armed force to serve as commander of a command directly subordinated to the commander of a combatant command may be made only with the concurrence of the commander of the combatant command and only in accordance with procedures established by the Secretary of Defense.

(2) The commander of a combatant command shall evaluate the duty performance of each commander of a command directly subordinated to the commander of such combatant command and submit the evaluation to the Secretary of the military department of which the commander being evaluated is a member.

(g)(1) Each unified combatant command shall have a joint staff with officers in key positions of responsibility from each military department having forces assigned to the combatant command.

(2) Selection of officers of an armed force to serve on the joint staff of a unified combatant command in any grade above lieutenant colonel or, in the case of an officer of the Navy, any grade above commander shall be made only with the concurrence of the commander of such command and only in accordance with procedures established by the Secretary of Defense.

(h) In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

§ 165. Combatant commands: administration and support

(a) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide for the administration and support of combatant forces assigned to each combatant command.

(b) Subject to the authority, direction, and control of the Secretary of Defense and consistent with the full operational command vested in the combatant commanders by section 164(d) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

(c) After consultation with the Secretary of each military department, the Secretary of Defense may also assign the responsibility or any part of the responsibility for the administration and support of combatant forces assigned to the combatant commands to other components of the Department of Defense. A component assigned such a responsibility shall discharge that responsibility under the authority, direction, and control of the Secretary of Defense and consistent with the full operational command vested in combatant commanders by section 164(d) of this title.

CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

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§ 175. Reserve Forces Policy Board

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(d) This section does not affect the committees on reserve policies prescribed by section [3033] *3019,* 5251, 5252, or [8033] *8019* of this title.

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CHAPTER 8—DEFENSE AGENCIES *AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES*

Subchapter	*Sec.*
I. Common Supply and Service Activities	*191*
II. Defense Intelligence Agency	*195*

SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES

Sec.

191. Common supply and service activities.

§ 191. Common supply and service activities

(a)(1) In any case in which the Secretary of Defense determines such action would be more effective, economical, or efficient, he may provide for the performance of a supply or service activity which is common to more than one military department by a single agency of the Department of Defense.

(2) The Secretary of Defense may establish within the Department of Defense a Department of Defense Agency or a Department of De-

fense Field Activity to perform any supply or service activity referred to in paragraph (1).

(b) The Secretary of Defense shall assign responsibility for the overall supervision of each supply or service agency referred to in subsection (a) to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, the Comptroller of the Department of Defense, the General Counsel of the Department of Defense, or the Chairman of the Joint Chiefs of Staff. In discharging such responsibility, an official assigned such a responsibility shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such supply or service agency conform with the material requirements of the military departments and the operational requirements of the unified and specified combatant commands. This subsection shall not apply to the Defense Intelligence Agency and the National Security Agency.

(c) The Secretary of Defense shall establish procedures to ensure the full and effective review of the program recommendations and budget proposals of each such supply or service agency.

(d)(1) The Chairman of the Joint Chiefs of Staff shall be responsible for advising the Secretary of Defense on the preparedness of each such supply or service agency which has wartime support responsibilities to perform those responsibilities. As part of such advice, the Chairman shall assess the adequacy of the contingency plans, participation in joint exercises, and readiness reporting systems of each such supply or service agency.

(2) The Secretary of Defense and the Director of Central Intelligence shall jointly develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff may identify in the wartime support capabilities of the Defense Intelligence Agency and the National Security Agency.

(e) The Secretary of Defense shall periodically assess the continuing need for each such supply or service agency. In making such assessment, the Secretary shall also examine the division of responsibilities between such supply or service agency and other components of the Department of Defense.

SUBCHAPTER II—DEFENSE INTELLIGENCE AGENCY

Sec.
[191] *195.* Unauthorized use of Defense Intelligence Agency name, initials, or seal.
[192] *196.* Benefits for certain employees of the Defense Intelligence Agency.

§ [191] *195.* Unauthorized use of Defense Intelligence Agency name, initials, or seal

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§ [192] *196.* Benefits for certain employees of the Defense Intelligence Agency

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PART II—PERSONNEL

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CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

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§ 525. Distribution of commissioned officers on active duty in general officer and flag officer grades

(a) * * *

(b)(1) * * *

(2) * * *

(3) An officer while serving as Chairman *or Vice Chairman* of the Joint Chiefs of Staff or as Chief of Staff to the President, if serving in the grade of general or admiral, is in addition to the number authorized his armed force for that grade under paragraph (1) or (2).

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CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

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§ 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals

(a) * * *

(b) * * *

(c) * * *

(d) When an officer is recommended to the President for an initial appointment to the grade of lieutenant general or vice admiral, or for an initial appointment to the grade of general or admiral, the Chairman of the Joint Chiefs of Staff shall submit to the President the evaluation of the Chairman of the performance of that officer as a member of the Joint Staff and in other joint duty positions. The Chairman shall submit the evaluation to the President at the same time the recommendation for the appointment is submitted to the President.

(e) Each time a vacancy occurs in a military office or position within the Department of Defense that the President has designated as a position of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral, the Secretary of Defense shall inform the President of the qualifications needed by an appointee to carry out effectively the duties and responsibilities of that office or position.

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CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

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SUBCHAPTER V—ADDITIONAL PROVISIONS RELATING TO PROMOTION, SEPARATION, AND RETIREMENT

Sec.
641. * * *
642. * * *
643. * * *
644. * * *
645. * * *
646. [Consideration of performance as a member of the Joint Staff.] *Service of officers in joint duty positions.*

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§ 646. [Consideration of performance as a member of the Joint Staff] *Service of officers in joint duty positions*

[The Secretary of Defense, in consultation with the Chairman of the Joint Chief of Staff, shall ensure that officer personnel policies of the Army, Navy, Air Force, and Marine Corps concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.]

(a) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff and the Secretary of each military department, shall ensure that the personnel practices, policies, and procedures of the Army, Navy, Air Force, and Marine Corps enhance the abilities of those officers assigned to joint duty positions to perform effectively the duties of such positions.

(b) In carrying out subsection (a), the Secretary of Defense shall ensure that—

(1) officers are well prepared to assume joint duty positions as the result of previous experience (including, as appropriate, previous duty in joint duty positions), formal education, and training;

(2) continuity is attained and preserved in joint organizations through appropriate periods of service by officers serving in joint organizations;

(3) the promotion, retention, and assignment policies of the Army, Navy, Air Force, and Marine Corps provide sufficient incentives for officers to seek joint duty assignments;

(4) the curricula of joint military colleges and schools are oriented to preparing officers for joint duty assignments;

(5) a substantial percentage of the graduates of joint military colleges and schools are assigned to joint duty positions soon after they complete their courses of study; and

(6) the curricula of the military colleges and schools of the Army, Navy, Air Force, and Marine Corps give appropriate emphasis to instruction in joint military matters.

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CHAPTER 41—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.

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[718. Secretary of Defense: detail of officers to assist.]

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[§ 718. Secretary of Defense: detail of officers to assist

[Officers of the armed forces may be detailed for duty as assistants or personal aides to the Secretary of Defense. However, the Secretary may not establish a military staff other than that established by section 141(a) of this title.]

(NOTE: The text of this section is relocated to section 134 as subsection (c) with a technical change.)

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CHAPTER 43—RANK AND COMMAND

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§ 743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force

The Chief of Staff of the Army, the Chief of Naval Operations, [and] the Chief of Staff of the Air Force, *and the Commandant of the Marine Corps* rank among themselves according to dates of appointment to those offices, and rank above all other officers on the active-duty list of the Army, Navy, Air Force, and Marine Corps, except the Chairman *and the Vice Chairman* of the Joint Chiefs of Staff.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

Chap. Sec.

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171. Requirement for Authorization of Appropriations; Oversight of Cost Growth in Major Programs 2871

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CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

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Sec.

2780. Sale or transfer of defense articles: reports to Congress.

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§ [133b] *2780.* Sale or transfer of defense articles: reports to Congress

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CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

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§ 2403. Major weapon systems: contractor guarantees

(a) * * *

(b) * * *

(c) * * *

(d) * * *

(e)(1) Before making a waiver under subsection (d) with respect to a weapon system that is a major defense acquisition program for the purpose of section [139a] *2873* of this title, the Secretary of Defense shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of his intention to waive any or all of the requirements of subsection (b) with respect to that system and shall include in the notice an explanation of the reasons for the waiver.

(2) Not later than February 1 of each year, the Secretary of Defense shall submit to the committees specified in paragraph (1) a report identifying each waiver made under subsection (d) during the preceding calendar year for a weapon system that is not a major defense acquisition program for the purpose of section [139a] *2873* of this title and shall include in the report an explanation of the reasons for the waivers.

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CHAPTER 171—REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS; OVERSIGHT OF COST GROWTH IN MAJOR PROGRAMS

Sec.

2871. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.
2872. Weapons development and procurement schedules for armed forces; reports; supplemental reports.
2873. Oversight of cost growth in major programs: Selected Acquisition Reports.
2874. Oversight of cost growth of major programs: unit cost reports.
2875. Major defense acquisition programs: independent cost estimates.

§ [138] *2871.* Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction (as defined in subsection (f));

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than military departments);

(8) procurement of ammunition; or

(9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefor have been specifically authorized by law.

(b)(1) Congress shall authorize the average personnel strength of the Selected Reserve of each reserve component of the armed forces. No funds may be appropriated for any fiscal year for the pay and allowances of members of any reserve component of the armed forces unless the personnel strength of the Selected Reserve of that reserve component for that fiscal year has been authorized by law.

(2) The Secretary of Defense shall submit to the Congress each year, not later than February 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years. Each such report shall include—

(A) recommendations as to the type and quantity of each major item of equipment which should be in the inventory of the Selected Reserve of the Ready Reserve of each reserve component of the armed forces;

(B) the quantity and average age of each type of major item of equipment which is expected to be physically available in the inventory of the Selected Reserve of the Ready Reserve of each reserve component as of the beginning of each fiscal year covered by the report;

(C) the quantity and cost of each type of major item of equipment which is expected to be procured for the Selective Reserve of the Ready Reserve of each reserve component from commercial sources or to be transferred to each such Selected Reserve from the active-duty components of the armed forces; and

(D) the quantity of each type of major item of equipment which is expected to be retired, decommissioned, transferred, or otherwise removed from the physical inventory of the Selected Reserve of the Ready Reserve of each reserve component and the plans for replacement of that equipment.

The report required by this paragraph shall be prepared and expressed in the same format and with the same level of detail as the information presented in the annual Five Year Defense Program Procurement Annex prepared by the Department of Defense.

(c)(1)(A) Congress shall authorize the end strength as of the end of each fiscal year for active-duty personnel for each component of the armed forces. The end strength authorized for a component of the armed forces for a fiscal year may be increased by a number equal to not more than 0.5 percent of the total end strength authorized for such component for that fiscal year if the Secretary of Defense determines that such increase is in the national interest. No funds may be appropriated for any fiscal year to or for the use of the active-duty personnel of any component of the armed forces unless the end strength for active-duty personnel of that component for that fiscal year has been authorized by law.

(B) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subparagraph (A), persons in the following categories shall be excluded:

(i) Members of the Ready Reserve ordered to active duty under section 673 of this title.

(ii) Members of the Selected Reserve of the Ready Reserve ordered to active duty under section 673b of this title.

(iii) Members of the National Guard called into Federal service under section 3500 or 8500 of this title.

(iv) Members of the militia called into Federal service under chapter 15 of this title.

(v) Members of reserve components on active duty for training for 180 days or less.

(vi) Members of reserve components on active duty for 180 days or less to perform special work.

(C) The authorized strength of the Navy is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(2) Congress shall authorize the end strength as of the end of each fiscal year for civilian personnel for each component of the Department of Defense. No funds may be appropriated for any fiscal year to or for the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.

(3)(A) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength level for each component of the armed forces for the next fiscal year and the annual civilian personnel end strength level for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time. The justification and explanation shall specify in detail for all military forces (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the—

(i) unit mission and capability;

(ii) strategy which the unit supports; and

(iii) area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

(B) The Secretary of Defense shall also include in the report required under subparagraph (A) a detailed discussion of—

(i) the manpower required for support and overhead functions within the armed forces and the Department of Defense;

(ii) the relationship of the manpower required for support and overhead functions to the primary combat missions and support policies; and

(iii) the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

(C) In such report, the Secretary of Defense shall also identify, define, and group by mission and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.

(D) The Secretary of Defense shall also include in such report with respect to each armed force under the jurisdiction of the Secretary of a military department—

(i) the number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years;

(ii) the estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years;

(iii) an estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

(I) retirements displayed by year of active commissioned service;

(II) discharges;

(III) other separations;

(IV) deaths;

(V) promotions; and

(VI) reserve and regular officers ordered to active duty; and

(iv) an analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

(I) Regular officers.

(II) Reserve officers on the active-duty list.

(III) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

(IV) Officers other than those specified in subclauses (I), (II), and (III) serving in a temporary grade.

(4) If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year. The President shall promptly notify Congress of any deferral of an end-strength limitation under this paragraph.

(5) The Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

(A) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

(B) include in each manpower requirements report submitted under paragraph (3) a complete justification for converting from one form of personnel to another.

(d)(1) Congress shall authorize the average military training student loads for each component of the armed forces. Such authorization is not required for unit or crew training student loads, but is required for student loads for the following individual training categories—

(A) recruit and specialized training;

(B) flight training;

(C) professional training in military and civilian institutions; and

(D) officer acquisition training.

No funds may be appropriated for any fiscal year for training military personnel in the training categories described in clauses (A)-(D) of any component of the armed forces unless the average student load of that component for that fiscal year has been authorized by law.

(2) The Secretary of Defense shall submit to Congress a written report, not later than March 1 of each fiscal year, recommending the average student load for each category of training for each component of the armed forces for the next three fiscal years, and shall include in that report justification for, and explanation of, the average student loads recommended.

(e)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

(f)(1) In subsection (a)(6), the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(2) In subsection (e):

(A) "Combat arms battalions" means, armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

(B) "Major repair work" means, in the case of any ship to which such subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

(g) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter.

(h) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.

(i) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

§ [139] *2872.* [Secretary of Defense: weapons] *Weapons* development and procurement schedules for armed forces; reports; supplemental reports

(a) The Secretary of Defense shall submit to Congress each calendar year, at the same time the President submits the budget to Congress under section 1105 of title 31, a written report regarding development and procurement schedules for each weapon system for which fund authorization is required by section [138(a)] *2871(a)* of this title, and for which any funds for procurement are requested in that budget. The report shall include data on operational testing and evaluation for each weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual report required under this subsection in each year thereafter until procurement of that system has been completed or terminated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) The Secretary of Defense shall submit a supplemental report to Congress not less than 30, or more than 90, days before the award of any contract, or the exercise of any option in a contract, for the procurement of any such weapon system (other than procurement of units for operational testing and evaluation, or long lead-time items, or both), unless—

(1) the contractor or contractors for that system have not yet been selected and the Secretary of Defense determines that the submission of that report would adversely affect the source selection process and notifies Congress in writing, prior to such award, of that determination, stating his reasons therefor; or

(2) the Secretary of Defense determines that the submission of that report would otherwise adversely affect the vital security interests of the United States and notifies Congress in writing of that determination at least 30 days prior to the award, stating his reasons therefor.

(c) Any report required to be submitted under subsection (a) or (b) shall include detailed and summarized information with respect to each weapon system covered, and specifically include, but not be limited to—

(1) the development schedule, including estimated annual costs until development is completed;

(2) the planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed;

(3) to the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the report, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted; and

(4) the most efficient production rate and the most efficient acquisition rate consistent with the program priority established for such weapon system by the Secretary concerned.

(d) In the case of any weapon system for which procurement funds have not been previously requested and for which funds are first requested by the President in any fiscal year after the Budget for that fiscal year has been submitted to Congress, the same reporting requirements shall be applicable to that system in the same manner and to the same extent as if funds had been requested for that system in that budget.

§ [139a] *2873.* Oversight of cost growth in major programs: Selected Acquisition Reports

(a) In this section:

(1) "Major defense acquisition program" means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars).

(2) "Program acquisition unit cost", with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

(3) "Procurement unit cost", with respect to a major defense acquisition program, means the amount equal to (A) the total of all funds programed to be available for obligation for procurement for the program for a fiscal year, reduced by the amount of funds programed to be available for obligation for such fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year, divided by (B) the number of fully-configured end items to be procured with such funds during such fiscal year.

(4) "Major contract", with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program that is one of the six largest contracts under the program in dollar amount and that is in excess of $2,000,000.

(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and during the period since that report there has been—

(A) less than a 5 percent change in total program cost; and

(B) less than a three-month delay in any program schedule milestone shown in the Selected Acquisition Report.

(3) A status report on a particular major defense acquisition program need not be included in any Selected Acquisition Report with the approval of the Committees on Armed Services of the Senate and House of Representatives.

(c)(1) Each Selected Acquisition Report for the first quarter for a fiscal year shall include—

(A) the same information, in detailed and summarized form, as is provided in reports submitted under section [139] *2872* of this title;

(B) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted; and

(C) such other information as the Secretary of Defense considers appropriate.

(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be prepared and submitted with the same content as was used for the Selected Acquisition Report for the first quarter of fiscal year 1984.

(3) In addition to the material required by paragraphs (1) and (2), each Selected Acquisition Report for the first quarter of a fiscal year shall include—

(A) a full life-cycle cost analysis for each major defense acquisition program included in the report that—

(i) is in the full-scale engineering development stage or has completed that stage; and

(ii) was first included in a Selected Acquisition Report for a quarter after the first quarter of fiscal year 1985;

(B) if the system that is included in that major defense acquisition program has an antecedent system, a full life-cycle cost analysis for that system; and

(C) production information for each major defense acquisition program included in the report, including (with respect to each such program)—

(i) specification of the baseline production rate for each year of production of the program, defined as the production rate for each fiscal year through completion of procurement assumed in the decision to proceed with production (commonly referred to as the "Milestone III" decision);

(ii) specification of the production rate for each fiscal year through completion of procurement assumed in the cost-effectiveness analysis prepared in conjunction with the decision to proceed with full-scale engineering development (commonly referred to as the "Milestone II" decision);

(iii) specification of the maximum production rate for each year of production under the program, defined as the production rate for each fiscal year through completion of procurement attainable with the facilities and tooling currently programmed to be available for procurement under the program or otherwise provided by Government funds;

(iv) specification of the current production rate for each year of production, defined as the production rate for the fiscal year during which the report is submitted and the annual production rate currently programmed for each subsequent fiscal year through completion of procurement, based on the President's Budget for the following fiscal year;

(v) estimation of any cost variance—

(I) between the program acquisition unit cost at the current production rate specified under clause (iv) and the program acquisition unit cost at the baseline production rate specified under clause (i); and

(II) between the total program cost at the current production rate specified under clause (iv) and the total program cost at the baseline production rate specified under clause (i);

(vi) estimation of any cost variance—

(I) between the program acquisition unit cost at the current production rate specified under clause (iv) and the program acquisition unit cost at the maximum production rate specified under clause (iii); and

(II) between the total program cost at the current production rate specified under clause (iv) and the total program cost at the maximum production rate specified under clause (iii); and

(vii) estimation of any schedule or delivery variance—

(I) between total quantities assumed in the baseline production rate specified under clause (i) and the current production rate specified under clause (iv); and

(II) total quantities assumed in the maximum production rate specified under clause (iii) and the current production rate specified under clause (iv).

(4) Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

(d)(1) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (e); and

(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (c).

(2) Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

(e) Information to be included under this subsection in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

(1) The quantity of items to be purchased under the program.

(2) The program acquisition cost.

(3) The program acquisition unit cost.

(4) The current procurement cost for the program.

(5) The current procurement unit cost for the program.

(6) The reasons for any change in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

(7) The major contracts under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

(8) The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years

for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

(9) Program highlights since the last Selected Acquisition Report.

(f) Each comprehensive annual Selected Acquisition Report shall be submitted within 60 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 45 days after the end of the fiscal-year quarter. A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress.

(g) The requirements of this section with respect to a major defense acquisition program shall cease to apply after 90 percent of the items to be delivered to the United States under the program (shown as the total quantity of items to be purchased under the program in the most recent Selected Acquisition Report) have been delivered or 90 percent of planned expenditures under the program have been made.

§ [139b] *2874.* Oversight of cost growth of major programs: unit cost reports

(a) In this section:

(1) "Major defense acquisition program", "program acquisition unit cost", "procurement unit cost", and "major contract" have the same meanings as provided in section [139a(a)] *2873(a)* of this title.

(2) "Baseline Selected Acquisition Report", with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means the Selected Acquisition Report in which information on the program is first included or the comprehensive annual Selected Acquisition Report for the fiscal year immediately before the fiscal year containing the quarter with respect to which the unit cost report is submitted, whichever is later.

(3) "Procurement program" means a program for which funds for procurement are authorized to be appropriated in a fiscal year.

(4) "Baseline Report", with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means—

(A) the most recent unit cost report submitted under subsection (e)(2)(B)(ii) with respect to the program, if that report was submitted for the second, third, or fourth quarter of the preceding fiscal year;

(B) if no report was submitted under subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program, if that report was submitted during that three-quarter period; and

(C) if no report was submitted with respect to the program under subsection (e)(1) or (e)(2)(B)(ii) during that three-quarter period, the baseline Selected Acquisition Report.

(b) The program manager for a defense acquisition program that as of the end of a fiscal-year quarter is a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section [139a(b)(3)] *2873(b)(3)* of this title) shall, after the end of that quarter, submit to the Secretary concerned a written report on the unit costs of the program. Each report for the first quarter of a fiscal year shall be submitted not more than 7 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each report for other quarters shall be submitted not more than 7 days after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

(1) The program acquisition unit cost.

(2) In the case of a procurement program, the procurement unit cost.

(3) Any cost variance or schedule variance in a major contract under the program since the Baseline Report was submitted.

(4) Any changes from program schedule milestones or program performances reflected in the baseline Selected Acquisition Report that are known, expected, or anticipated by the program manager.

(c)(1) If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under subsection (b) determines at any time during a fiscal-year quarter that there is reasonable cause to believe—

(A) that the program acquisition unit cost for the program has increased by more than 15 percent over the program acquisition unit cost for the program as shown in the Baseline Report;

(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 15 percent over the procurement unit cost for the program as reflected in the Baseline Report; or

(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent over the cost of the contract as of the time the contract was made;

and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the Secretary concerned during the current fiscal year (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year), then the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required under subsection (b).

(2) If in any fiscal year the program manager for a major defense acquisition program has submitted to the Secretary concerned a unit cost report (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year) indicating an increase of 15 percent or more in a category described in clauses (A) through (C) of paragraph (1) and subsequently determines that there is reasonable cause to believe—

(A) that the current program acquisition unit cost of the program has increased by more than 5 percent over the current program acquisition unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 5 percent over the current procurement unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program; or

(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 5 percent over the cost of the contract as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required by subsection (b).

(d)(1) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program, the Secretary shall determine whether the current program acquisition unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the program acquisition unit cost for the program as shown in the Baseline Report.

(2) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program that is a procurement program, the Secretary concerned shall, in addition to the determination under paragraph (1), determine whether the current procurement unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the procurement unit cost for the program as reflected in the Baseline Report.

(3) If the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2)—

(A) the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the unit cost report that is the basis for such determination was submitted to him and shall include in such notification the date on which the determination was made; and

(B) except as provided in subsection (e), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program—

(i) after the end of the 30-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 15; or

(ii) after the end of the 60-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 25 percent.

(e)(1) The prohibition in subsection (d)(3)(B)(i) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply in the case of a determination of a more than 15 percent increase (as determined under subsection (d)) if the Secretary concerned submits to Congress, before the end of the 30-day period referred to in such subsection, a report containing the information described in subsection (g).

(2) The prohibition in subsection (d)(3)(B)(ii) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply, in the case of a determination of a more than 25 percent increase (as determined under subsection (d))—

(A) if the increase was due to termination or cancellation of the acquisition program and the Secretary concerned submits to Congress, before the end of the 30-day period referred to in subsection (d)(3)(B)(i), a report containing the information described in subsection (g); or

(B) if the Secretary of Defense submits to Congress, before the end of the 60-day period referred to in subsection (d)(3)(B)(ii)—

(i) a written certification stating that—

(I) such acquisition program is essential to the national security;

(II) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

(III) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

(IV) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

(ii) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report.

(3) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program shall cease to apply at the end of a period of 30 days of continuous session of Congress

(as determined under section 7307(b)(2) of this title) beginning on the date—

(A) on which Congress receives the report of the Secretary concerned under paragraph (1) or (2)(B)(ii) with respect to that program, in the case of a determination of a more than 15 percent increase (as determined in subsection (d)); or

(B) on which Congress has received both the report of the Secretary concerned under paragraph (1) or (2)(B)(ii) and the certification of the Secretary of Defense under paragraph (2)(B)(i) with respect to that program, in the case of a more than 25 percent increase (as determined under subsection (d)).

(f) Any determination of a percentage increase under this section shall include expected inflation.

(g)(1) Except as provided in paragraph (2), each report under subsection (e) with respect to a major defense acquisition program shall include the following:

(A) The name of the major defense acquisition program.

(B) The date of the preparation of the report.

(C) The program phase as of the date of the preparation of the report.

(D) The estimate of the program acquisition cost for the program as shown in the Selected Acquisition Report in which the program was first included, expressed in constant base-year dollars and in current dollars.

(E) The current program acquisition cost in constant base-year dollars and in current dollars.

(F) A statement of the reasons for any increase in program acquisition unit cost or procurement unit cost.

(G) The completion status of the program (i) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (ii) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

(H) The fiscal year in which information on the program was first included in a Selected Acquisition Report (referred to in this paragraph as the "base year") and the date of that Selected Acquisition Report in which information on the program was first included.

(I) The type of the Baseline Report (under subsection (a)(4)) and the date of the Baseline Report.

(J) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost, stated both in constant base-year dollars and in current dollars.

(K) The current change and the total change, in dollars and expressed as a percentage, in the procurement unit cost, stated both in constant base-year dollars and in current dollars and the procurement unit cost for the succeeding fiscal year expressed in constant base-year dollars and in current year dollars.

(L) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

(M) The identities of the military and civilian officers responsible for program management and cost control of the program.

(N) The action taken and proposed to be taken to control future cost growth of the program.

(O) Any changes made in the performance or schedule milestones of the program and the extent to which such changes have contributed to the increase in program acquisition unit cost or procurement unit cost.

(P) The following contract performance assessment information with respect to each major contract under the program:

(i) The name of the contractor.

(ii) The phase that the contract is in at the time of the preparation of the report.

(iii) The percentage of work under the contract that has been completed.

(iv) Any current change, and the total change, in dollars and expressed as a percentage, in the contract cost.

(v) The percentage by which the contract is currently ahead of or behind schedule.

(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.

(2) If a program acquisition unit cost increase or a procurement unit cost increase for a major defense acquisition program that results in a report under this subsection is due to termination or cancellation of the entire program, only the information specified in clauses (A) through (F) of paragraph (1) and the percentage change in program acquisition unit cost or procurement unit cost that resulted in the report need be included in the report.

§ [139c] *2875.* Major defense acquisition programs: independent cost estimates

(a) The Secretary of Defense may not approve the full-scale engineering development or the production and deployment of a major defense acquisition program unless an independent estimate of the cost of the program first has been submitted to (and considered by) the Secretary of Defense.

(b) In this section:

(1) "Major defense acquisition program" has the same meaning as provided in section [139a(a)(1)] *2873(a)(1)* of this title.

(2) "Independent estimate" means, with respect to a major defense acquisition program, an estimate of the cost of such program prepared by an office or other entity that is not under the supervision, direction, or control of the military department, defense agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program.

(3) "Cost of the program" means, with respect to a major defense acquisition program, all elements of the life-cycle costs of the program, including—

(A) the cost of all research and development efforts, without regard to the funding source or management control;

(B) the cost of the prime hardware and its major subcomponents, support costs (including training, peculiar support, and data), initial spares, military construction costs, and the cost of all related procurements (including, where applicable, modifications to existing aircraft or ship platforms), without regard to the funding source or management control of the program; and

(C) all elements of operating and support costs.

(Note: Sections 2871 through 2875 are relocated from chapter 4 with minor technical changes.)

Subtitle B—Army

PART I—ORGANIZATION

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CHAPTER 303—DEPARTMENT OF THE ARMY

Sec.
[3010.] *3011.* Organization.
[3011.] *3012.* Department of the Army: seal.
[3012.] *3013.* Secretary of the Army: *appointment;* powers and duties; delegation [by] *authority.*
[3013. Under Secretary of the Army: Assistant Secretaries of the Army.]
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[3016. Administrative Assistant.]
3016. Assistant Secretaries of the Army: appointment; powers and duties.
3017. Secretary of the Army: successors to duties.
3018. Inspector General of the Army: detail duties.
3019. [Office of the Army Reserve: appointment of Chief.] *Reserve components of the Army: policies and regulations for government of.*

§ [3010] *3011.* Organization

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§ [3011] *3012.* Department of the Army: seal

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§ [3012] *3013.* Secretary of the Army: *appointment;* powers and duties; delegation [by] *authority*

[(a) There is a Secretary of the Army, who is the head of the Department of the Army.

[(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Army, including—

[(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Army, including research and development; and

[(2) direction of the construction, maintenance, and repair of buildings, structures, and utilities for the Army;

[(3) acquisition of all real estate and the issue of licenses in connection with Government reservations;

[(4) operation of water, gas, electric, and sewer utilities; and

[(5) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Army affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe. The Secretary is responsible to the Secretary of Defense for the operation and efficiency of the Department. After first informing the Secretary of Defense, the Secretary may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate.]

(a) There is a Secretary of the Army appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Army. A person may not be appointed as Secretary of the Army within five years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and the provisions of chapter 6 of this title, the Secretary of the Army is responsible for and has the authority necessary to conduct all affairs of the Department of the Army, including the following:

(1) Recruiting.

(2) Organizing.

(3) Supplying.

(4) Equipping (including research and development).

(5) Training.

(6) Servicing.

(7) Mobilizing.

(8) Demobilizing.

(9) Administering.

(10) Maintaining.

(11) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests therein necessary to carry out the responsibilities specified in clauses (1) through (10).

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army is also responsible to the Secretary of Defense for—

(1) the functioning and efficiency of the Department of the Army;

(2) the formulation of policies and programs by the Department of the Army that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or

the Secretary of Defense relating to the functions of the Department of the Army;

(4) carrying out the functions of the Department of the Army so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

(5) effective cooperation and coordination between the Department of the Army and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) the presentation and justification of the positions of the Department of the Army on the plans, programs, and policies of the Department of Defense; and

(7) the effective supervision and control of the intelligence activities of the Department of the Army.

(d) The Secretary of the Army is also responsible for such other activities as may be prescribed by law, the President, or the Secretary of Defense.

(e) After first informing the Secretary of Defense, the Secretary of the Army may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

[(c)**]** *(f)* The Secretary *of the Army* may assign such of his *functions, powers, and* duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

[(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

[(1) the procurement activities of the Department of the Army; and

[(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Army.**]**

[(e)**]** *(g)* The Secretary**[**, as he considers appropriate,**]** may assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army.

[(f)**]** *(h)* The Secretary may change the title of any **[**other officer, or of any activity,**]** *officer or activity* of the Department of the Army *not prescribed by law.*

[(g)**]** *(i)* The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

[§ 3013. Under Secretary of the Army; Assistant Secretaries of the Army

[There are an Under Secretary of the Army and five Assistant Secretaries of the Army in the Department of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army. One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources including flood control, navigation, shore protection, and related purposes.]

[§ 3014. Comptroller of the Army: appointment; functions

[(a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army shall have the following matters in the Department of the Army organized and conducted consistently with the operations of the Office of the Comptroller of the Department of Defense:

[(1) Budgeting.
[(2) Accounting.
[(3) Progress and statistical reporting.
[(4) Internal audit.
[(5) Administrative organization structure, and managerial procedures, relating to the matters covered by clauses (1)–(4).

[(b) There are a Comptroller of the Army and a Deputy Comptroller of the Army in the Department of the Army. They shall be appointed by the Secretary of the Army. The Secretary may appoint either civilian or military personnel to these offices. If either the Comptroller or the Deputy Comptroller is not a civilian, the other must be a civilian.

[(c) Subject to the authority of the Secretary of the Army, the Comptroller of the Army named in subsection (a)(1)–(5).

[(d) The Comptroller is under the direction and supervision of, and is directly responsible to, either the Secretary of the Army, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Staff, the Vice Chief of Staff, or a Deputy Chief of Staff, if the Secretary so prescribes.]

§ 3014. Office of the Secretary of the Army

(a) There is in the Department of the Army an Office of the Secretary of the Army to assist the Secretary in carrying out his responsibilities.

(b) The Office of the Secretary of the Army shall consist of the following:

(1) The Under Secretary of the Army.
(2) The Assistant Secretaries of the Army.
(3) The Inspector General of the Army.
(4) The Army Reserve Forces Policy Committee.
(5) Such other offices and officers as the Secretary of the Army may establish or designate.

(c) The Secretary of the Army shall ensure that the Office of the Secretary of the Army does not duplicate specific functions for which the Secretary has assigned responsibility to the Army Staff.

(d) The total number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Secretary of the Army may not exceed 313. However, such limitation does not apply in time of war or during a national emergency declared by Congress.

[§ 3015. Chief of National Guard Bureau: appointment; acting chief]

(NOTE: Section 3015 is relocated to chapter 305 as section 3041.)

§ 3015. Under Secretary of the Army: appointment; powers and duties

(a) There is an Under Secretary of the Army appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

[§ 3016. Administrative Assistant

[(a) There is an Administrative Assistant in the Department of the Army. The Administrative Assistant shall be appointed by the Secretary of the Army and shall perform duties that the Secretary considers appropriate.

[(b) During a vacancy in the office of Secretary, the Administrative Assistant has charge and custody of all records, books, and papers of the Department of the Army.

[(c) The Secretary may authorize the Administrative Assistant to sign, during the temporary absence of the Secretary, any paper requiring his signature. In such a case, the Administrative Assistant's signature has the same effect as the Secretary's signature.]

§ 3016. Assistant Secretaries of the Army: appointment; powers and duties

(a) There are five Assistant Secretaries of the Army in the Department of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army.

(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources including flood control, navigation, shore protection, and related purposes.

§ 3017. Secretary of the Army: successors to duties

[(a)] If the Secretary of the Army dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Army.

(2) The Assistant Secretaries of the Army in order of their length of service as such.

(3) The Chief of Staff.

[(b) Performance of the duties of the Secretary by the Chief of Staff or any officer of the Army designated under section 3347 of title 5 shall not be considered as the holding of a civil office within the meaning of section 973(b) of this title.]

§ 3018. Inspector General of the Army: detail; duties

(a) There is in the Office of the Secretary of the Army an Inspector General of the Army who shall be detailed to such position by the Secretary of the Army from general officers of the Army. An officer may not be detailed to such position for a tour of duty of not more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

(b) The Inspector General, when directed by the Secretary or the Chief of Staff, shall inquire into and report upon the discipline, efficiency, and economy of the Army and shall perform any other duties prescribed by the Secretary or by the Chief of Staff.

(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Army and shall recommend additional inspections and investigations as may appear appropriate.

(d) The Inspector General shall have such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.

[§ 3019. Office of the Army Reserve: appointment of Chief]

(NOTE: This section is relocated to chapter 305 as section 3038.)

§ [3033] *3019.* Reserve components of the [Army;] *Army:* policies and regulations for government of

(a) There is in the [office] *Office* of the Secretary of the Army an Army Reserve Forces Policy Committee which shall review and comment upon major policy matters directly affecting the reserve components *and the mobilization preparedness* of the Army, and the Committee's comments on such policy matters shall accompany the final report regarding any such matters submitted to *the Secretary of the Army and* the Chief of Staff [and the Assistant Secretary responsible for reserve affairs].

(b) The Committee consists of officers in the grade of colonel or above, as follows:

(1) five members of the Regular Army on duty with the Army General Staff;

(2) five members of the Army National Guard of the United States not on active duty; and

(3) five members of the Army Reserve not on active duty.

(c) The members of the Committee shall select the Chairman from among the members on the Committee not on active duty.

(d) A majority of the members of the Committee shall act whenever matter affecting both the Army National Guard of the United States and Army Reserve are being considered. However, when any matter solely affecting one of the reserve components of the Army is being considered, it shall be acted upon only by the Subcommittee on Army National Guard Policy or the Subcommittee on Army Reserve Policy, as appropriate.

(e) The Subcommittee on Army National Guard Policy consists of the members of the Committee other than the Army Reserve members.

(f) The Subcommittee on Army Reserve Policy consists of the members of the Committee other than the Army National Guard members.

(g) Membership on the Committee is determined by the Secretary of the Army and is for a minimum period of three years. Except in the case of members of the Committee from the Regular Army, the Secretary of the Army, when appointing new members, shall insure that among the officers of each component on the Committee there will at all times be two or more members with more than one year of continuous service on the Committee.

(h) There shall be not less than 10 officers of the Army National Guard of the United States and the Army Reserve on duty with the Army General Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Army General Staff while on that duty.

(NOTE: Section 3019 is relocated from chapter 305 and amended.)

CHAPTER 305—THE ARMY STAFF

Sec.
3031. [Composition:] *The Army Staff: composition;* assignment and detail of members of Army and civilians.
3032. [General] *The Army Staff: general* duties.
[3033. Reserve components of the Army; policies and regulations for government of.]
[3034] *3033.* Chief of Staff: appointment; *term of office; powers and* duties.
[3035] *3034.* Vice Chief of Staff [, Deputy Chiefs of Staff, and Assistant Chiefs of Staff]*: appointment; powers and duties;* succession to duties of Chief of Staff.
3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff: detail.
3036. Chiefs of branches: appointment; duties.
3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
[3019] *3038.* Office of Army Reserve: appointment of Chief.
3039. [Inspector General;] Provost Marshal General.
3040. Deputy and assistant chiefs of branches.
[3015] *3041.* Chief of National Guard Bureau: appointment; acting chief.

§ 3031. [Composition:] *The Army Staff: composition;* assignment and detail of members of Army and civilians

(a) There is in the executive part of the Department of the Army an Army Staff [consisting of—] *to assist the Secretary of the Army in carrying out his responsibilities.*

(b) The Army Staff shall consist of the following:

(1) [the] *The* Chief of [Staff;] *Staff.*

(2) [the] *The* Vice Chief of [Staff;] *Staff.*

(3) [not] *Not* more than four Deputy Chiefs of Staff, as prescribed by the Secretary of the [Army;] *Army.*

(4) [not] *Not* more than [five] *three* Assistant Chiefs of Staff, as prescribed by the [Secretary;] *Secretary.*

[(5) the officers named in sections 3036, 3039, and 3040 of this title;]

(5) The Chief of Engineers.

(6) The Surgeon General of the Army.

(7) The Judge Advocate General of the Army.

(8) The Chief of Chaplains of the Army.

(9) The Chief of Army Reserve.

(10) The Provost Marshal General.

[(6)] *(11)* [other] *Other* members of the Army assigned or detailed to the Army [Staff;] *Staff.*

[(7)] *(12)* [civilians] *Civilians* in the Department of the Army assigned or detailed to the Army Staff.

[(b)] *(c)* Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe. A part of the Army Staff may be designated as the Army General Staff.

[(c)] *(d)(1) The total number of military and civilian personnel assigned or detailed to permanent duty to the Army Staff may not exceed 2,729. Such limitation does not apply in time of war or during a national emergency declared by Congress.*

(2) Not more than [3,000] *1,825* officers of the Army may be assigned or detailed to permanent duty in the [executive part of the Department of the Army] *Office of the Secretary of the Army and the Army Staff.* Of [this number not] *such number, not* more than 1,000 may be detailed or assigned to duty on or with the Army General Staff. However, [these] *such* limitations do not apply in time of war[, or of] *or during a* national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the [executive part of the Department] *Office of the Secretary of the Army and the Army Staff* or on or with the Army General Staff.

§ 3032. [General] *The Army Staff: general* duties

(a) The Army Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the [Army.] *Army, and the Chief of Staff of the Army.*

(b) Under the [direction and] *authority, direction, and* control of the Secretary *of the Army,* the Army Staff shall—

(1) prepare for such employment of the Army, and for such recruiting, organizing, supplying, equipping (*including research and development*), training, [serving] *servicing,* mobilizing, [and demobilizing] *demobilizing, administering, and maintaining* of the Army, as will assist in the execution of any power, duty, or function of the Secretary of the Chief of Staff;

(2) investigate and report upon the efficiency of the Army and its preparation [for] *to support* military operations *by combatant commands;*

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Army; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

[§ 3033. Reserve components of Army; policies and regulations for government of]

(NOTE: Section 3033 is relocated to chapter 303 as section 3019.)

§ [3034] *3033.* Chief of Staff: appointment; *term of office; powers and* duties

(a) [The] *There is a* Chief of Staff *of the Army* [shall be] appointed by the President, by and with the advice and consent of the Senate, for a period of four years, from the general officers of the Army. He serves during the pleasure of the President. In time of war or *during a* national emergency[,] declared by [the] Congress [after December 31, 1968], he may be reappointed for a term of not more than four years.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade.

(c) Except as otherwise prescribed by law and subject to section [3012 (c) and (d)] *3013(f)* of this title, the Chief of Staff performs his duties under the [direction] *authority, direction, and control* of the Secretary of the [Army,] *Army* and is directly responsible to the Secretary [for the efficiency of the Army, its preparedness for military operations, and plans therefor].

(d) [The] *Subject to the authority, direction, and control of the Secretary of the Army,* the Chief of Staff shall—

(1) preside over the Army Staff;

(2) [send] *transmit* the plans and recommendations of the Army Staff to the Secretary, and advise [him] *the Secretary* with regard [thereto;] *to such plans and recommendations;*

(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise [supervision over] *supervision, consistent with the full operational command vested in unified or specified combatant commanders under chapter 6 of this title, over* such of the members and organizations of the Army as the Secretary [of the Army] determines [. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title];

(5) perform the duties [described] *prescribed* for him by [sections 141 and] *section* 171 of this title and other provisions of law; [and]

(6) keep the Secretary fully informed on matters considered or acted upon by the Joint Chiefs of Staff; and

[(6)] *(7)* perform such other military duties, not otherwise assigned by law, as are assigned to him by the [President.] *President, the Secretary of Defense, or the Secretary of the Army.*

(e) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

§ [3035] *3034.* Vice Chief of Staff[, Deputy Chiefs of Staff, and Assistant Chiefs of Staff;]: *appointment; powers and duties;* succession to duties of Chief of Staff

[(a) The Vice Chief of Staff, the Deputy Chiefs of Staff, and the Assistant Chiefs of Staff shall be general officers detailed to those positions.]

(a) There is a Vice Chief of Staff of the Army appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army.

[(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

[(1) The Vice Chief of Staff.

[(2) The Deputy Chiefs of Staff in order of seniority.]

(b) The Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his regular or reserve grade.

(c) The Vice Chief of Staff has such authority and duties with respect to the Department of the Army as the Chief of Staff, with the approval of the Secretary of the Army, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff.

(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Army in the Army Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first.

§ 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff: detail

The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

§ 3036. Chiefs of branches: appointment; duties

(a) There are in the Army the following officers.

(1) Chief of Engineers.

(2) Surgeon General.

(3) Judge Advocate General.

(4) Chief of Chaplains.

(b) Each officer named in subsection (a), except the Judge Advocate General, shall be appointed by the President, by and with the advice and consent of the Senate, from officers above the grade of major who—

(1) have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment; and

(2) have been recommended by a board under subsection (e).

Each officer covered by the preceding sentence, except the Surgeon General, shall be appointed in the regular grade of major general. The Surgeon General, while so serving, has the grade of lieutenant general. The Judge Advocate General shall be appointed as prescribed in section 3037 of this title.

§ 3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties

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§ [3019] *3038*. Office of Army Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Army an Office of the Army Reserve which is headed by a chief who is the adviser to the Chief of Staff on Army Reserve matters.

(b) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Army Reserve from officers of the Army Reserve not on active duty, or on active duty under section 265 of this title, who—

(1) have had at least 10 years of commissioned service in the Army Reserve;

(2) are in grade of brigadier general and above; and

(3) have been recommended by the Secretary of the Army.

(c) The Chief of Army Reserve holds office for four years but may be removed for cause at any time. He is eligible to succeed himself. If he holds a lower reserve grade, he shall be appointed in the grade of major general for [services] *service* in the Army Reserve.

(NOTE: Section 3038 is relocated from chapter 303 with a technical change in subsection (c).)

§ 3039. [Inspector General;] Provost Marshal General

[(a) There is an Inspector General in the Army. When directed by the Secretary of the Army or the Chief of Staff, the Inspector General shall inquire into and report upon the discipline, efficiency, and economy of the Army, and shall perform any other duties prescribed by the Secretary of the Army, by the Chief of Staff, or by law.]

[(b)] *(a)* There is a Provost Marshal General in the Army. The Provost Marshal General shall perform the duties prescribed by the Secretary *of the Army*, by the Chief of Staff, or by law.

[(c)] *(b)* The position [of Inspector General and that] of Provost Marshal General shall [each] be filled by the detail of a general officer of the Army for a tour of duty of not more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

(NOTE: The provisions relating to the Inspector General are relocated to chapter 303 as section 3018.)

§ 3040. Deputy and assistant chiefs of branches

* * * * * * *

§ [3015] *3041.* Chief of National Guard Bureau: appointment; acting chief

(a) There is a National Guard Bureau, which is a Joint Bureau of the Department of the Army and the Department of the Air Force, headed by a chief who is the adviser to the Army Chief of Staff and the Air Force Chief of Staff on National Guard matters. The National Guard Bureau is the channel of communication between the departments concerned and the several States, Territories, Puerto Rico, the Canal Zone, and the District of Columbia on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

(b) The President, by and with the advice and consent of the Senate, shall appoint the Chief of the National Guard Bureau from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

(1) have been recommended by their respective governors;

(2) have had at least 10 years of commissioned service in the active National Guard; and

(3) are in a grade above lieutenant colonel.

(c) The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time and may not hold that office after he becomes 64 years of age. He is eligible to succeed himself. If he holds a lower reserve grade he shall be appointed as a Reserve in his armed force in the grade of major general for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

(d) If the Chief of the National Guard Bureau is unable, because of disability, to perform the functions of his office, or if that office is vacant, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty in the Bureau shall act as its chief until the disability ceases or a successor is appointed.

(NOTE: Section 3041 is relocated from chapter 303 without change.)

CHAPTER 307—THE ARMY

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§ 3074. Commands: territorial organization; engineer tactical units

(a) Except as otherwise prescribed by law *or the Secretary of Defense,* the Army shall be divided into such commands, forces, and organizations as may be prescribed by the Secretary of the Army.

(b) * * *

(c) * * *

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Subtitle C—Navy and Marine Corps

PART I—ORGANIZATION

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CHAPTER 503—DEPARTMENT OF THE NAVY

Sec.
5011. [Composition] *Organization.*
[5012. United States Navy: composition; functions.]
5012. Department of the Navy: seal.
[5013. United States Marine Corps: composition; functions.]
5013. Secretary of the Navy: appointment; powers and duties; delegation authority.
[5032] *5013a.* Secretary of the Navy: powers with respect to Coast Guard.
5014. Office of the Secretary of the Navy.
[5033] *5015.* Under Secretary of the Navy: appointment; *powers and* duties.
[5034] *5016.* Assistant Secretaries of the Navy: appointment; *powers and* duties.
[5036] *5017.* Secretary of the Navy: [succession] *successors* to duties.
[5088] *5018.* Naval Inspector General: detail, duties.
[5150] *5019.* Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties.
[5151] *5020.* Office of Naval Research: duties.
[5152] *5021.* Office of Naval Research: appropriations; time limit.
[5153] *5022.* Naval Research Advisory Committee.

§ 5011. [Composition] *Organization*

The Department of the Navy is separately organized under the Secretary of Navy. It operates under the authority, direction, and control of the Secretary of Defense. [It is composed of the executive part of the Department of the Navy; the Headquarters, United States Marine Corps; the entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces; and all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy. It includes the United States Coast Guard when it is operating as a service in the Navy.]

(Note: The deleted portion of this section is relocated to a new chapter 518 as section 5241 with changes.)

[§ 5012. United States Navy: composition; functions]

(Note: Section 5012 is relocated to new chapter 518 as section 5242 without change.)

§ 5012. Department of the Navy: seal

The Secretary of the Navy shall have a seal for the Department of the Navy. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

[§ 5013. United States Marine Corps: composition; functions]

(NOTE: Section 5013 is relocated to new chapter 518 as section 5243 without change.)

§ 5013. Secretary of the Navy: appointment; powers and duties; delegation authority

(a) There is a Secretary of the Navy appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Navy. A person may not be appointed as Secretary of the Navy within five years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and the provisions of chapter 6 of this title, the Secretary of the Navy is responsible for and has the authority necessary to conduct all affairs of the Department of the Navy, including the following:

(1) Recruiting.
(2) Organizing.
(3) Supplying.
(4) Equipping (including research and development).
(5) Training.
(6) Servicing.
(7) Mobilizing.
(8) Demobilizing.
(9) Administering.
(10) Maintaining.
(11) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests therein necessary to carry out the responsibilities specified in clauses (1) through (10).

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy is also responsible to the Secretary of Defense for—

(1) the functioning and efficiency of the Department of the Navy;

(2) the formulation of policies and programs by the Department of the Navy that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Navy;

(4) carrying out the functions of the Department of the Navy so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

(5) effective cooperation and coordination between the Department of the Navy and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) the presentation and justification of the positions of the Department of the Navy on the plans, programs, and policies of the Department of Defense; and

(7) the effective supervision and control of the intelligence activities of the Department of the Navy.

(d) The Secretary of the Navy is also responsible for such other activities as may be prescribed by law, the President, or the Secretary of Defense.

(e) After first informing the Secretary of Defense, the Secretary of the Navy may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(f) The Secretary of the Navy may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Navy and to the Assistant Secretaries of the Navy. Officers of the Navy and the Marine Corps shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

(g) The Secretary may assign, detail, and prescribe the duties of members of the Navy and Marine Corps and civilian personnel of the Department of the Navy.

(h) The Secretary may change the title of any officer or activity of the Department of the Navy not prescribed by law.

(i) The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

(Note: Section 5013 is relocated from chapter 505 with changes.)

§ [5032] *5013a.* Secretary of the Navy: powers with respect to Coast Guard

(a) Whenever the Coast Guard operates as a service in the Navy under section 3 of title 14, the Secretary of the Navy has the same powers and duties with respect to the Coast Guard as the Secretary of Transportation has when the Coast Guard is not so operating.

(b) While operating as a service in the Navy, the Coast Guard is subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to make them uniform, to the extent he considers advisable, with Navy operations.

(Note: Section 5013a is relocated from chapter 505 without change.)

§ 5014. Office of the Secretary of the Navy

(a) There is in the Department of the Navy an Office of the Secretary of the Navy to assist the Secretary in carrying out his responsibilities.

(b) The Office of the Secretary of the Navy shall consist of the following:

(1) The Under Secretary of the Navy.
(2) The Assistant Secretaries of the Navy.
(3) The Naval Inspector General.
(4) The Chief of Naval Research.

(5) The Judge Advocate General of the Navy.

(6) Such other offices and officers as the Secretary of the Navy may establish or designate.

(c) The Secretary of the Navy shall ensure that the Office of the Secretary of the Navy does not duplicate specific functions for which the Secretary has assigned responsibility to the Office of the Chief of Naval Operations or to the Headquarters, Marine Corps.

(d) The total number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Secretary of the Navy may not exceed 685. However, such limitation does not apply in time of war or during a national emergency declared by Congress.

§ [5033] *5015.* Under Secretary of the Navy: appointment; powers and duties

(a) There is an Under Secretary of the Navy appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Navy [prescribes] *may prescribe.*

(NOTE: Section 5015 is relocated from chapter 505 with a minor change.)

§ [5034] *5016.* Assistant Secretaries of the Navy: appointment; *powers and* duties

(a) There are four Assistant Secretaries of the Navy in the Department of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)*(1)* The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy [prescribes] *may prescribe.*

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

(NOTE: Section 5016 is relocated from chapter 505 with minor technical changes.)

§ [5036] *5017.* Secretary of the Navy: [succession] *successors* to duties

[(a) When there is a vacancy in the Office of Secretary of the Navy, or during the absence or disability of the Secretary, the Under Secretary of the Navy, and, in the order prescribed by the Secretary of the Navy, the Assistant Secretaries of the Navy succeed to the duties of the Secretary. If the Secretary does not prescribe an order for succession to his duties by the Assistant Secretaries, they succeed to those duties in the order in which they took office as Assistant Secretaries.

[(b) During the temporary absence of the officials named in subsection (a), the Chief of Naval Operations or, in his absence, the Vice Chief of Naval Operations succeeds to the duties of the Secretary.]

If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following *list and who is not absent or disabled shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases:*

(1) The Under Secretary of the Navy.

(2) The Assistant Secretaries of the Navy in order of their length of service as such.

(3) The Chief of Naval Operations.

(4) The Commandant of the Marine Corps.

[(c) Performance of the duties of the Secretary by the Chief of Naval Operations, the Vice Chief of Naval Operations, or any officer of the Navy or Marine Corps designated under section 3347 of title 5 shall not be considered as the holding of a civil office within the meaning of section 973(b) of this title.**]**

(NOTE: Section 5017 is relocated from chapter 505 with changes.)

§ [5088] *5018.* Naval Inspector General: detail; duties

(a) There is in the Office of the **[**Chief of Naval Operations**]** *Secretary of the Navy* the Office of the Naval Inspector General. The Naval Inspector General shall be detailed from officers on the active-duty list in the line of the Navy serving in grades above captain.

(b) The Naval Inspector General, when directed, shall inquire into and report upon any matter that affects the discipline or military efficiency of the Department of the Navy. He shall make such inspections, investigations, and reports as the Secretary of the Navy or the Chief of Naval Operations directs.

(c) The Naval Inspector General shall periodically propose programs of inspections to the **[**Chief of Naval Operations**]** *Secretary of the Navy* and shall recommend additional inspections and investigations as may appear appropriate.

(NOTE: Section 5018 is relocated from chapter 509 with changes.)

§ [5150] *5019.* Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties

(a) There is in the Office of the Secretary of the Navy an Office of Naval Research, headed by the Chief of Naval Research.

(b) The Chief of Naval Research shall be appointed by the President, by and with the advice and consent of the Senate, for a term of not more than three years, from officers on the active-duty list of the Navy not below the grade of commander.

(c) The Chief of Naval Research is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(d) An officer on the active-duty list of the Navy may be detailed as Assistant Chief of Naval Research.

(e) When there is a vacancy in the office of Chief of Naval Research, or during the absence or disability of the Chief, the Assistant Chief, unless otherwise directed by the President, shall perform the duties of the Chief until a successor is appointed or the absence or disability ceases.

(NOTE: Section 5019 is relocated from chapter 513 without change.)

§ [5151] *5020.* Office of Naval Research: duties

(a) The Office of Naval Research shall perform such duties as the Secretary of the Navy prescribes relating to—

(1) the encouragement, promotion, planning, initiation, and coordination of naval research;

(2) the conduct of naval research in augmentation of and in conjunction with the research and development conducted by the bureaus and other agencies and offices of the Department of the Navy; and

(3) the supervision, administration, and control of activities within or for the Department relating to patents, inventions, trademarks, copyrights, and royalty payments, and matters connected therewith.

(b) Sufficient information relative to estimates of appropriations for research by the several bureaus and offices shall be furnished to the Office of Naval Research to assist it in coordinating naval research and carrying out its other duties.

(c) The Office of Naval Research shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

(NOTE: Section 5020 is relocated from chapter 513 without change.)

§ [5152] *5021.* Office of Naval Research: appropriations; time limit

(a) Sums appropriated for the Office of Naval Research may be used to pay the cost of performing its duties under section [5151] *5020* of this title including the cost of—

(1) administration;

(2) conduct of research and development work in Government facilities; and

(3) conduct of research and development work under contracts with individuals, corporations, and educational or scientific institutions.

(b) Sums appropriated for the purposes of this section, if obligated during the fiscal year for which appropriated, remain available for expenditure for four years after the end of that fiscal year. Any balance not spent after that four-year period shall be carried to the surplus fund and covered into the Treasury.

(NOTE: Section 5021 is relocated from chapter 513 with a minor change.)

§ [5153] *5022.* Naval Research Advisory Committee

(a) The Secretary of the Navy may appoint a Naval Research Advisory Committee consisting of not more than 15 civilians preeminent in the fields of science, research, and development work. One member of the Committee must be from the field of medicine. Each member serves for such term as the Secretary specifies.

(b) The Committee shall meet at such times as the Secretary specifies to consult with and advise the Chief of Naval Operations and the Chief of Naval Research.

(c) No law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, the payment or receipt of compensation in connection with any [claim proceeding] *claim, proceeding,* or matter involving the United States applies to members of the Committee solely by reason of their membership on the Committee.

(NOTE: Section 5022 is relocated from chapter 513 with a minor change.)

[CHAPTER 505—SECRETARY, UNDER SECRETARY, AND ASSISTANT SECRETARIES OF THE NAVY

[Sec.
[5031. Secretary of the Navy: responsibilities.
[5032. Secretary of the Navy: powers with respect to Coast Guard.
[5033. Under Secretary of the Navy: appointment; duties.
[5034. Assistant Secretary of the Navy: appointment; duties.
[5036. Secretary of the Navy: succession to duties.

[§ 5031. Secretary of the Navy: responsibilities

[(a) There is a Secretary of the Navy, who is the head of the Department of the Navy. He shall administer the Department of the Navy under the direction, authority, and control of the Secretary of Defense. The Secretary is responsible to the Secretary of Defense for the operation and efficiency of the Department. After first informing the Secretary of Defense, the Secretary may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate.

[(b) The Secretary of the Navy shall execute such orders as he receives from the President relative to—

[(1) the procurement of naval stores and material;

[(2) the construction, armament, equipment, and employment of naval vessels; and

[(3) all matters connected with the Department of the Navy.

[(c) The Secretary of the Navy has custody and charge of all books, records, and other property of the Department.

[(d) The Secretary of the Navy may prescribe regulations to carry out his functions, powers, and duties under this title. The authority of the Secretary under the preceding sentence is in addition to the authority of the Secretary under section 6011 of this title.]

(NOTE: Part of section 5031 is relocated to chapter 503 as section 5013 with changes, and part of it is relocated to chapter 661 as section 7861 with changes.)

[§ 5032. Secretary of the Navy: powers with respect to Coast Guard]

(NOTE: Section 5032 is relocated to chapter 503 as section 5013a without change.)

[§ 5033. Under Secretary of the Navy: appointment; duties]

(NOTE: Section 5033 is relocated to chapter 503 as section 5015 with minor changes.)

[§ 5034. Assistant Secretaries of the Navy: appointment; duties]

(NOTE: Section 5034 is relocated to chapter 503 as section 5016 with minor technical changes.)

[§ 5036. Secretary of the Navy: succession to duties]

(NOTE: Section 5036 is relocated to chapter 503 as section 5017 with changes.)

CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

Sec.
5031. Office of the Chief of Naval Operations.
5032. Office of the Chief of Naval Operations: general duties.
5033. Chief of Naval Operations: appointment; term of office; powers and duties.
[5083] *5034.* Chief of Naval Operations: retirement.
[5085] *5035.* Vice Chief of Naval Operations: appointment; [powers;] *powers and* duties; *succession to duties of Chief of Naval Operations.*
[5086] *5036.* Deputy Chiefs of Naval Operations: detail; duties.
[5087] *5037.* Assistant Chiefs of Naval Operations: detail; duties.

§ 5031. Office of the Chief of Naval Operations

(a) There is in the executive part of the Department of the Navy an Office of the Chief of Naval Operations to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Office of the Chief of Naval Operations shall consist of the following:

(1) The Chief of Naval Operations.

(2) The Vice Chief of Naval Operations.

(3) Not more than four Deputy Chiefs of Naval Operations, as prescribed by the Secretary of the Navy.

(4) Not more than three Assistant Chiefs of Naval Operations, as prescribed by the Secretary.

(5) The Surgeon General of the Navy.

(6) The Chief of Naval Personnel.

(7) The Chief of Chaplains of the Navy.

(8) Other members of the Navy and Marine Corps assigned or detailed to the Office of the Chief of Naval Operations.

(9) Civilians in the Department of the Navy assigned or detailed to the Office of the Chief of Naval Operations.

(c) Except as otherwise specifically prescribed by law, the Office of the Chief of Naval Operations shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(d)(1) The total number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Chief of Naval Operations may not exceed 1,725. Such limitation does not apply in time of war or during a national emergency declared by Congress.

(2) Not more than 1,300 officers of the Navy and Marine Corps may be assigned or detailed to permanent duty in the Office of the Chief of Naval Operations. However, such limitation does not apply in time of war or during a national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the Office of the Chief of Naval Operations.

§ 5032. Office of the Chief of Naval Operations: general duties

(a) The Office of the Chief of Naval Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy, and the Chief of Naval Operations.

(b) Under the authority, direction, and control of the Secretary of the Navy, the Office of the Chief of Naval Operations shall—

(1) prepare for such employment of the Navy, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Navy, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Naval Operations;

(2) investigate and report upon the efficiency of the Navy and its preparation to support military operations by combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Chief of Naval Operations in coordinating the actions of all organizations of the Navy; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

§ 5033. Chief of Naval Operations: appointment; term of office; powers and duties

(a) There is a Chief of Naval Operations appointed by the President, by and with the advice and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years, from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his regular or reserve grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

(c) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

(1) preside over the Office of the Chief of Naval Operations;

(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the full operational command vested in unified or specified combatant commanders under chapter 6 of this title, over such of the members and organizations of the Navy and Marine Corps as the Secretary determines;

(5) perform the duties prescribed for him by section 171 of this title and other provisions of law;

(6) keep the Secretary fully informed on matters considered or acted upon by the Joint Chiefs of Staff; and

(7) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(e) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(NOTE: Section 5033 is relocated from chapter 509 with changes.)

§ [5083] *5034.* Chief of Naval Operations: retirement

An officer who is retired while serving as Chief of Naval Operations, or who, after serving at least two and one-half years as Chief of Naval Operations, is retired after completion of that service while serving in a lower [rank or] grade *than admiral*, may, in the discretion of the President, be retired with the grade of admiral. The retired pay of such an officer shall be computed at the highest rates of basic pay applicable to him while he served in that office.

(NOTE: Section 5034 is relocated from chapter 509 with a minor technical change.)

§ [5085] *5035.* Vice Chief of Naval Operations: appointment; [powers;] *powers and* duties; *succession to duties of Chief of Naval Operations*

(a) There is a Vice Chief of Naval Operations appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his regular or reserve grade.

[b] *(c)* The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or disabled, unless the President directs otherwise, the most senior officer in the Office of the Chief of Naval Oper-

ations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

(NOTE: Section 5035 is relocated from chapter 509 with changes.)

§ [5086] *5036.* Deputy Chiefs of Naval Operations: detail; duties

(a) There are in the Office of the Chief of Naval Operations not more than [six] *four* Deputy Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy serving in grades above captain.

(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

(NOTE: Section 5036 is relocated from chapter 509 with a change.)

§ [5087] *5037.* Assistant Chiefs of Naval Operations: detail; duties

[(a) Officers on the active-duty list in the line of the Navy and officers on the active-duty list of the Marine Corps, in numbers considered by the Chief of Naval Operations to be necessary, shall, with the approval of the Secretary of the Navy, be detailed as Assistant Chiefs of Naval Operations.]

(a) There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy and officers on the active-duty list of the Marine Corps.

(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.

(NOTE: Section 5037 is relocated from chapter 509 with changes.)

[CHAPTER 507—OFFICE OF THE COMPTROLLER OF THE NAVY

[Sec.
[5061. Comptroller of the Navy: appointment; functions.
[5063. Office of Budget and Reports: duties.
[5064. Office of Budget and Reports: Director; Assistant Director.

[§ 5061. Comptroller of the Navy: appointment; functions

[(a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy shall have the following matters in the Department of the Navy organized and conducted consistently with the operations of the Office of the Comptroller of the Department of Defense:

[(1) Budgeting.
[(2) Accounting.
[(3) Progress and statistical reporting.
[(4) Internal audit.

[(5) Administrative organization structure, and managerial procedures, relating to the matters covered by clauses (1)–(4).

[(b) There are a Comptroller of the Navy and a Deputy Comptroller of the Navy in the Department of the Navy. They shall be appointed by the Secretary of the Navy. The Secretary may appoint either civilian or military personnel to these offices. If either the Comptroller or the Deputy Comptroller is not a civilian, the other must be a civilian.

[(c) Subject to the authority of the Secretary of the Navy, the Comptroller is responsible for the matters in the Department of the Navy named in subsection (a)(1)–(5).

[(d) The Comptroller is under the direction and supervision of, and is directly responsible to, either the Secretary of the Navy, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Naval Operations, the Vice Chief of Naval Operations, or a Deputy Chief of Naval Operations, if the Secretary so prescribes.

[§ 5063. Office of Budget and Reports: duties

[(a) There is in the Office of the Secretary of the Navy an Office of Budget and Reports, which is charged with such duties pertaining to naval budgetary matters and statistical and work reporting as the Secretary prescribes.

[(b) Duties of the Office of Budget and Reports shall be performed under the authority of the Secretary, and its orders are considered as coming from him.

[§ 5064. Office of Budget and Reports: Director; Assistant Director

[(a) The Director of Budget and Reports is the head of the Office of Budget and Reports. He shall be appointed by the President, by and with the advice and consent of the Senate, for a term of three years, from officers on the active-duty list in the line of the Navy not below the grade of lieutenant commander.

[(b) An officer in the line of the Navy may be detailed as Assistant Director of Budget and Reports.

[(c) When there is a vacancy in the office of Director, or during the absence or disability of the Director, the Assistant Director, unless otherwise directed by the President, shall perform the duties of the Director until a successor is appointed or the absence or disability ceases.]

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[CHAPTER 509—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

[Sec.

[5081. Chief of Naval Operations: appointment; term of office; powers; duties.
[5082. Chief of Naval Operations: coordinating duties.
[5083. Chief of Naval Operations: retirement.
[5084. Chief of Naval Operations: quarters.
[5085. Vice Chief of Naval Operations: appointment; powers; duties.
[5086. Deputy Chiefs of Naval Operations: detail; duties.
[5087. Assistant Chiefs of Naval Operations: detail; duties.
[5088. Naval Inspector General: detail; duties.

[§ 5081. Chief of Naval Operations: appointment; term of office; powers; duties

[(a) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, to serve at the pleasure of the President, for a term of four years, from officers on the active-duty list in the line of the Navy, eligible to command at sea and not below the grade of rear admiral. In time of war or national emergency declared by the Congress after December 31, 1968, he may be reappointed for a term of not more than four years.

[(b) The Chief of Naval Operations, while so serving, has the rank of admiral. He takes precedence above all other officers of the naval service, except an officer of the naval service who is serving as Chairman of the Joint Chiefs of Staff.

[(c) Under the direction of the Secretary of the Navy, the Chief of Naval Operations shall exercise supervision over such of the members and organizations of the Navy and the Marine Corps as the Secretary of the Navy determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title.

[(d) The Chief of Naval Operations is the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy.]

(NOTE: Section 5081 is relocated to chapter 505 as section 5033 with changes.)

[5082. Chief of Naval Operations: coordinating duties

[(a) To coordinate military operations and their support effectively, the Chief of Naval Operations, under the direction of the Secretary of the Navy, shall—

[(1) determine the personnel and the material requirements of the operating forces, including the order in which ships, aircraft, surface craft, weapons, and facilities are to be constructed, maintained, altered, repaired, and overhauled; and

[(2) coordinate and direct the efforts of the bureaus and offices of the executive part of the Department of the Navy as may be necessary to make available and distribute, when and where needed, the personnel and material required.

[(b) As used in this section, "operating forces" means the several fleets, sea-going forces, sea-frontier forces, district forces, and such of the shore establishment of the Navy and other forces and activities as may be assigned thereto by the President or the Secretary of the Navy.

[§ 5083. Chief of Naval Operations: retirement]

(NOTE: Section 5083 is relocated to chapter 505 as section 5034 with a minor technical change.)

[§ 5084. Chief of Naval Operations: quarters

[The Secretary of the Navy may assign to the Chief of Naval Operations the public quarters constructed under the authority of the Act of March 2, 1891, ch. 494 (26 Stat. 806), located at the United States Naval Observatory in the District of Columbia.

[§ 5085. Vice Chief of Naval Operations: appointment; powers; duties

[(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

[(b) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

[(c) When there is a vacancy in the office of Chief of Naval Operations, or during the absence or disability of the Chief of Naval Operations, the Vice Chief of Naval Operations, unless otherwise directed by the President, shall perform the duties of the Chief until a successor is appointed or the absence or disability ceases.]

(NOTE: Section 5085 is relocated to chapter 505 as section 5035 with changes.)

[§ 5086. Deputy Chief of Naval Operations: detail; duties]

(NOTE: Section 5086 is relocated to chapter 505 as section 5036 with a change.)

[§ 5087. Assistant Chiefs of Naval Operations: detail; duties]

(NOTE: Section 5087 is relocated to chapter 505 as section 5037 with changes.)

[§ 5088. Naval Inspector General: detail; duties]

(NOTE: Section 5088 is relocated to chapter 503 as section 5018 with changes.)

CHAPTER 513—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL; OFFICE OF NAVAL RESEARCH

Sec.

5131. Bureaus: names; location.
5132. Bureaus: distribution of business; orders; records; expenses.
5133. Bureau Chiefs and Judge Advocate General: rank; pay and allowances; retirement.
5135. Bureau Chiefs: succession to duties.
5137. Bureau of Medicine and Sugery: Chief; Deputy Chief.
5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions.
5141. Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel.
5142. Chaplain Corps and Chief of Chaplains.
5142a. Deputy Chief of Chaplains.
5148. Judge Advocate General's Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emoluments, duties.
5149. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General.

[5150. Office of Naval Research: Chief, appointment, term, emoluments; Assistant Chief; succession to duties.]
[5151. Office of Naval Research: duties.]
[5152. Office of Naval Research: appropriations; time limit.]
[5153. Naval Research Advisory Committee.]
[5155] *5150.* Staff Corps of the Navy.

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[§ 5150. Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties]

(NOTE: Section 5150 is transferred to chapter 503 as section 5019 without change.)

[§ 5151. Office of Naval Research: duties]

(NOTE: Section 5151 is transferred to chapter 503 as section 5020 without change.)

[§ 5152. Office of Naval Research: appropriations; time limit]

(NOTE: Section 5152 is transferred to chapter 503 as section 5021 without change.)

[§ 5153. Naval Research Advisory Committee]

(NOTE: Section 5153 is transferred to chapter 503 as section 5022 without change.)

§ [5155] *5150.* Staff corps of the Navy

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CHAPTER 515—[COMMANDANT OF THE MARINE CORPS;] HEADQUARTERS, MARINE CORPS

Sec.
[5201. Commandant: appointment; term; emoluments.]
5201. Headquarters, Marine Corps.
[5202. Assistant Commandant: detail; succession to duties.]
5202. Headquarters, Marine Corps: general duties.
[5203. Director of Personnel: detail.]
5203. Commandant of the Marine Corps: appointment; term of office; powers and duties.
[5204. Quartermaster General: detail.]
5204. Assistant Commandant of the Marine Corps: appointment; powers and duties; succession to duties of Commandant.

§ 5201. Headquarters, Marine Corps

(a) There is in the executive part of the Department of the Navy a Headquarters, Marine Corps, to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Headquarters, Marine Corps, shall consist of the following:

(1) The Commandant of the Marine Corps.

(2) The Assistant Commandant of the Marine Corps.

(3) The Chief of Staff of the Marine Corps.

(4) Not more than four Deputy Chiefs of Staff, as prescribed by the Secretary of the Navy.

(5) Not more than three Assistant Chiefs of Staff, as prescribed by the Secretary of the Navy.

(6) Other members of the Navy and Marine Corps assigned or detailed to the Headquarters, Marine Corps.

(7) Civilians in the Department of the Navy assigned or detailed to the Headquarters, Marine Corps.

(c) Except as otherwise specifically prescribed by law, the Headquarters, Marine Corps, shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary of the Navy may prescribe.

(d)(1) The total number of military and civilian personnel assigned or detailed to permanent duty in the Headquarters, Marine Corps, may not exceed 428. Such limitation does not apply in time of war or during a national emergency declared by Congress.

(2) Not more than 325 officers of the Marine Corps and Navy may be assigned or detailed to permanent duty in the Headquarters, Marine Corps. However, such limitation does not apply in time of war or during a national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the Headquarters, Marine Corps.

§ 5202. Headquarters, Marine Corps: general duties

(a) The Headquarters, Marine Corps, shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy, and the Commandant of the Marine Corps.

(b) Under the authority, direction, and control of the Secretary of the Navy, the Headquarters, Marine Corps, shall—

(1) prepare for such employment of the Marine Corps, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Marine Corps, as will assist in the execution of any power, duty, or function of the Secretary or the Commandant;

(2) investigate and report upon the efficiency of the Marine Corps and its preparation to support military operations by combatant commanders;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Commandant in coordinating the action of all organizations of the Marine Corps; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

§ **[5201]** ***5203.*** **Commandant** ***of the Marine Corps*****: appointment; term[; emoluments]** ***of office; powers and duties***

(a) **[**There is a Commandant of the Marine Corps, appointed by the President, for a term of four years, by and with the advice and consent of the Senate, to serve at the pleasure of the President, from officers on the active-duty list of the Marine Corps, not below the rank of colonel.**]** *There is a Commandant of the Marine Corps appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from officers on the active-duty list of the Marine Corps not below the grade of colonel. He serves at the pleasure of the Presi-*

dent. In time of war or *during a* national emergency declared by [the] Congress [after December 31, 1968], he may be reappointed for a term of not more than four years.

(b) The Commandant of the Marine Corps, while so serving, has the [rank] *grade* of general *without vacating his regular or reserve grade.*

(c) An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower [rank or] grade *than general,* may, in the discretion of the President, be retired with the grade of general. The retired pay of such an officer shall be computed at the highest rates of basic pay applicable to him while he served in that office.

[(d) Under the direction of the Secretary of the Navy, the Commandant of the Marine Corps shall exercise supervision over such of the members and organizations of the Marine Corps and Navy as the Secretary of the Navy determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title.]

(d) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

(1) preside over the Headquarters, Marine Corps;

(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary, and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans and recommendations of the Headquarters, Marine Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the full operational command vested in unified or specified combatant commanders under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines;

(5) perform the duties prescribed for him by section 171 of this title and other provisions of law;

(6) keep the Secretary fully informed on matters considered or acted upon by the Joint Chiefs of Staff; and

(7) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(f) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

§ [5202] *5204.* Assistant Commandant *of the Marine Corps: appointment; powers and duties;* [detail;] succession to duties *of Commandant*

(a) [An officer] *There is an Assistant Commandant of the Marine Corps appointed by the President, by and with the advice* *and consent of the Senate, from officers* on the active-duty list of the Marine Corps not restricted in the performance of duty [may be detailed as Assistant Commandant of the Marine Corps].

[(d)] *(b)* The Assistant Commandant of the Marine Corps, while so serving, has the grade of general[, at the discretion of the President, by and with the advice and consent of the Senate] *without vacating his regular or reserve grade.*

(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

[(b)] *(d)* When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the [Commandant,] *Commandant—*

(1) the Assistant Commandant *of the Marine Corps* [and then the officers of the Marine Corps not restricted in the performance of duty on duty at Headquarters, Marine Corps, in order of seniority,] shall perform the duties of the Commandant [unless otherwise directed by the President] *until a successor is appointed or the absence or disability ceases; or*

(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

[§ 5203. Director of Personnel: detail

[The Director of Personnel, Marine Corps, shall be detailed by the Commandant from officers of the Marine Corps on active duty who are not restricted in the performance of duty.

[§ 5204. Quartermaster General: detail

[The Quartermaster General of the Marine Corps shall be detailed by the Commandant from officers of the Marine Corps on active duty.]

CHAPTER 518—COMPOSITION OF THE DEPARTMENT OF THE NAVY

Sec.
5241. Department of the Navy: composition.
[5012] *5242.* United States Navy: composition; functions.
[5013] *5243.* United States Marine Corps: composition; functions.

§ 5241. Department of the Navy: composition

The Department of the Navy is composed of the following:

(1) The Office of the Secretary of the Navy.

(2) The Office of the Chief of Naval Operations.

(3) The Headquarters, Marine Corps.

(4) The entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces.

(5) All field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy.

(6) The United States Coast Guard when it is operating as a service in the Navy.

(NOTE: Section 5241 is relocated from chapter 503 with changes.)

§[5012] *5242.* United States Navy: composition; functions

(a) The Navy, within the Department of the Navy, includes, in general, naval combat and service forces and such aviation as may be organic therein. The Navy shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations at sea. It is responsible for the preparation of naval forces necessary for the effective prosecution of war except as otherwise assigned and is generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping.

(b) All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation consists of combat and service and training forces, and includes land-based naval aviation, air transport essential for naval operations, all air weapons and air techniques involved in the operations and activities of the Navy, and the entire remainder of the aeronautical organization of the Navy, together with the personnel necessary therefor.

(c) The Navy shall develop aircraft, weapons, tactics, technique, organization, and equipment of naval combat and service elements. Matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, and the Navy.

(d) The Navy is responsible, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

(NOTE: Section 5242 is relocated from chapter 503 without change.)

§[5013] *5243.* United States Marine Corps: composition; functions

(a) The Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy, shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct. However, these additional duties may not detract from or interfere with the operations for which the Marine Corps is primarily organized.

(b) The Marine Corps shall develop, in coordination with the Army and the Air Force, those phases of amphibious operations that pertain to the tactics, technique, and equipment used by landing forces.

(c) The Marine Corps is responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war.

(NOTE: Section 5243 is relocated from chapter 503 without change.)

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PART IV—GENERAL ADMINISTRATION

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CHAPTER 661—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
7861. Custody of departmental records and property.
[7861] *7862.* Accounts of paymasters of lost or captured naval vessels.
[7862] *7863.* Disbursements by order of commanding officer.

§ 7861. Custody of departmental records and property

The Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy.

(NOTE: Section 7861 is relocated from chapter 505 with changes.)

§ [7861] *7862.* Accounts of paymasters of lost or captured naval vessels

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§ [7862] *7863.* Disbursements by order of commanding officer

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Subtitle D—Air Force

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PART I—ORGANIZATION

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CHAPTER 803—DEPARTMENT OF THE AIR FORCE

Sec.
[8010] *8011.* Organization.
[8011] *8012.* Department of the Air Force: seal.
[8012] *8013.* Secretary of the Air [Force:] *Force: appointment;* powers and duties; delegation [by] *authority.*
[8014. Comptroller of the Air Force: appointment; functions.]
8014. Office of the Secretary of the Air Force.
[*8013*] *8015.* Under Secretary of the Air Force [; Assistant Secretaries of the Air Force]: *appointment; powers and duties.*
8016. Assistant Secretaries of the Air Force: appointment; powers and duties.

8017. Secretary of the Air Force: successors to duties.
8018. Inspector General of the Air Force: detail; duties.
[8019. Office of Air Force Reserve: appointment of Chief.]
8019. Reserve components of Air Force: policies and regulations for government of; functions of National Guard Bureau with respect to Air National Guard.

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§ [8010] *8011.* Organization

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§ [8011] *8012.* Department of the Air Force: seal

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§ [8012] *8013.* Secretary of the Air [Force;] *Force: appointment;* powers and duties; delegation [by] *authority*

[(a) There is a Secretary of the Air Force appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air Force.

[(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Air Force, including—

[(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Air Force, including research and development; and

[(2) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Air Force affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe. The Secretary is responsible to the Secretary of Defense for the operation and efficiency of the Department. After first informing the Secretary of Defense, the Secretary may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate.

[(c) The Secretary may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or an Assistant Secretary.

[(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

[(1) the procurement activities of the Department of the Air Force;

[(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Air Force; and

[(3) activities of the reserve components of the Air Force.]

(a) There is a Secretary of the Air Force appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air

Force. A person may not be appointed as Secretary of the Air Force within five years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and the provisions of chapter 6 of this title, the Secretary of the Air Force is responsible for and has the authority necessary to conduct all affairs of the Department of the Air Force, including the following:

(1) Recruiting.
(2) Organizing.
(3) Supplying.
(4) Equipping (including research and development).
(5) Training.
(6) Servicing.
(7) Mobilizing.
(8) Demobilizing.
(9) Administering.
(10) Maintaining.
(11) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests therein necessary to carry out the responsibilities specified in clauses (1) through (10).

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force is also responsible to the Secretary of Defense for—

(1) the functioning and efficiency of the Department of the Air Force;

(2) the formulation of policies and programs by the Department of the Air Force that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Air Force;

(4) carrying out the functions of the Department of the Air Force so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

(5) effective cooperation and coordination between the Department of the Air Force and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) the presentation and justification of the positions of the Department of the Air Force on the plans, programs, and policies of the Department of Defense; and

(7) the effective supervision and control of the intelligence activities of the Department of the Air Force.

(d) The Secretary of the Air Force is also responsible for such other activities as may be prescribed by law, the President, or the Secretary of Defense.

(e) After first informing the Secretary of Defense, the Secretary of the Air Force may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(f) The Secretary of the Air Force may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

[(e)] *(g)* The Secretary[, as he considers appropriate,] may assign, detail, and prescribe the duties of members of the Air Force and civilian personnel of the Department of the Air Force.

(h) The Secretary may change the title of any officer or activity of the Department of the Air Force not prescribed by law.

[(f)] *(i)* The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

[§ 8014. Comptroller of the Air Force: appointment; functions

[(a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force shall have the following matters in the Department of the Air Force organized and conducted consistently with the operations of the Office of the Comptroller of the Department of Defense:

[(1) Budgeting.

[(2) Accounting.

[(3) Progress and statistical reporting.

[(4) Internal audit.

[(5) Administrative organization structure, and managerial procedures, relating to the matters covered by clauses (1)–(4).

[(b) There are a Comptroller of the Air Force and a Deputy Comptroller of the Air Force in the Department of the Air Force. They shall be appointed by the Secretary of the Air Force. The Secretary may appoint either civilian or military personnel to these offices. If either the Comptroller or the Deputy Comptroller is not a civilian, the other must be a civilian.

[(c) Subject to the authority of the Secretary of the Air Force, the Comptroller is responsible for the matters in the Department of the Air Force named in subsection (a)(1)–(5).

[(d) The Comptroller is under the direction and supervision of, and is directly responsible to, either the Secretary of the Air Force, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Staff, the Vice Chief of Staff, or a Deputy Chief of Staff, if the Secretary so prescribes.]

§ 8014. Office of the Secretary of the Air Force

(a) There is in the Department of the Air Force an Office of the Secretary of the Air Force to assist the Secretary in carrying out his responsibilities.

(b) The Office of the Secretary of the Air Force shall consist of the following:

(1) The Under Secretary of the Air Force.

(2) The Assistant Secretaries of the Air Force.

(3) The Inspector General of the Air Force.

(4) The Air Reserve Forces Policy Committee.

(5) Such other offices and officers as the Secretary of the Air Force may establish or designate.

(c) The Secretary of the Air Force shall ensure that the Office of the Secretary of the Air Force does not duplicate specific functions for which the Secretary has assigned responsibility to the Air Staff.

(d) The total number of military and civilian personnel assigned or detailed to permanent duty in the Office of the Secretary of the Air Force may not exceed 258. However, such limitation does not apply in time of war or during a national emergency declared by Congress.

§ [8013] *8015.* Under Secretary of the Air [Force; Assistant Secretaries of the Air Force] *Force: appointment; powers and duties*

[There are an Under Secretary of the Air Force and three Assistant Secretaries of the Air Force in the Department of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.]

(a) There is an Under Secretary of the Air Force appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

§ 8016. Assistant Secretaries of the Air Force: appointment; powers and duties

(a) There are three Assistant Secretaries of the Air Force in the Department of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.

§ 8017. Secretary of the Air Force: successors to duties

[(a)] If the Secretary of the Air Force dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Air Force.

(2) The Assistant Secretaries of the Air Force in order of their length of service as such.

(3) The Chief of Staff.

[(b) Performance of the duties of the Secretary by the Chief of Staff or any officer of the Air Force designated under section 3347 of title 5 shall not be considered as the holding of a civil office within the meaning of section 973(b) of this title.]

§ 8018. Inspector General of the Air Force: detail; duties

(a) There is in the Office of the Secretary of the Air Force an Inspector General of the Air Force who shall be detailed to such position by the Secretary of the Air Force from general officers of the Air Force. An officer may not be detailed to such position for a tour of duty of not more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

(b) The Inspector General, when directed by the Secretary or the Chief of Staff, shall inquire into and report upon the discipline, efficiency, and economy of the Air Force and shall perform any other duties prescribed by the Secretary or by the Chief of Staff.

(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Air Force and shall recommend additional inspections and investigations as may appear appropriate.

(d) The Inspector General shall have such deputies and assistants as the Secretary of the Air Force may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Air Force for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.

[§ 8019. Office of the Air Force Reserve: Appointment of Chief]

(NOTE: Section 8019 has been relocated to chapter 805 as section 8038 without change.)

§ [8033] *8019.* Reserve components of Air [Force;] *Force:* policies and regulations for government [of:] *of;* functions of National Guard Bureau with respect to Air National Guard

(a) There is in the Office of the Secretary of the Air Force an Air Reserve Forces Policy Committee on Air National Guard and Air Force Reserve Policy which shall review and comment upon major policy matters directly affecting the reserve components *and the mobilization preparedness* of the Air Force and the Committee's comments on such policy matters shall accompany the final report regarding any such matters submitted to the [Chief of Staff and the Assistant Secretary responsible for reserve affairs.] *Secretary of the Air Force and the Chief of Staff.*

(b) The committee consists of officers in the grade of colonel or above, as follows:

(1) five members of the Regular Air Force on duty with the Air Staff;

(2) five members of the Air National Guard of the United States not on active duty; *and*

(3) five members of the Air Force Reserve not on active duty.

(c) The members of the Committee shall select the Chairman from among the members on the Committee not on active duty.

(d) A majority of the members of the Committee shall act whenever matters affecting both the Air National Guard of the United States and Air Force Reserve are being considered. However, when any matter solely affecting one of the Air Force Reserve components is being considered, it shall be acted upon only by the Subcommittee on Air National Guard Policy or the Subcommittee on Air Force Reserve Policy, as appropriate.

(e) The Subcommittee on Air National Guard Policy consists of the members of the Committee other than the Air Force Reserve members.

(f) The Subcommittee on Air Force Reserve Policy consists of the members of the Committee other than the Air National Guard members.

(g) Membership on the Air Staff Committee is determined by the Secretary of the Air Force and is for a minimum period of three years. Except in the case of members of the Committee from the Regular Air Force, the Secretary of the Air Force, when appointing new members shall insure that among the officers of each component on the Committee there will at all times be two or more members with more than one year of continuous service on the Committee.

(h) There shall be not less than 10 officers of the Air National Guard of the United States and the Air Force Reserve on duty with the Air Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Air Staff while on that duty.

(NOTE: Section 8019 is relocated from chapter 805 with changes.

CHAPTER 805—THE AIR STAFF

Sec.

8031. [Composition:] *The Air Staff: composition;* assignment and detail of members of Air Force and civilians.
8032. *The Air Staff:* [General] *general* duties.
[8033. Reserve components of Air Force; policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard.]
[8034. Chief of Staff: appointment; duties.]
8033. Chief of Staff: appointment; term of office; powers and duties.
8034. Vice Chief of Staff: appointment; powers and duties; succession to duties of Chief of Staff.
[8035. Vice Chief of Staff; Deputy Chiefs of Staff: succession to duties of Chief of Staff and Vice Chief of Staff.]
8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff: detail.
8036. Surgeon General: appointment; grade.
8037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.
8038. Office of the Air Force Reserve: appointment of Chief.

§ 8031. [Composition:] *The Air Staff: composition;* assignment and detail of members of Air Force and civilians

[(a) There is in the executive part of the Department of the Air Force an Air Staff consisting of—

[(1) the Chief of Staff;

[(2) the Vice Chief of Staff;

[(3) not more than five Deputy Chiefs of Staff;

[(4) other members of the Air Force assigned or detailed to the Air Staff; and

[(5) civilians in the Department of the Air Force assigned or detailed to the Air Staff.]

(a) There is in the executive part of the Department of the Air Force an Air Staff to assist the Secretary of the Air Force in carrying out his responsibilities.

(b) The Air Staff shall consist of the following:

(1) The Chief of Staff.

(2) The Vice Chief of Staff.

(3) Not more than four Deputy Chiefs of Staff, as prescribed by the Secretary of the Air Force.

(4) Not more than three Assistant Chiefs of Staff, as prescribed by the Secretary.

(5) The Surgeon General of the Air Force.

(6) The Judge Advocate General of the Air Force.

(7) The Chief of the Air Force Reserve.

(8) Other members of the Air Force assigned or detailed to the Air Staff.

(9) Civilians in the Department of the Air Force assigned or detailed to the Air Staff.

[(b)] *(c)* [The] *Except as otherwise specifically prescribed by law, the* Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

[(c)] *(d)(1) The total number of military and civilian personnel assigned or detailed to permanent duty to the Air Staff may not exceed 2,354. Such limitation does not apply in time of war or during a national emergency declared by Congress.*

(2) Not more than [2,800] *1,575* officers of the Air Force may be assigned or detailed to permanent duty in the [executive part of the Department of the Air Force] *Office of the Secretary of the Air Force and the Air Staff.* However, [this] *such* limitation does not apply in time of war[, or of] *or during a* national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the [executive part of the Department] *Office of the Secretary of the Air Force and the Air Staff.*

§ 8032. *The Air Staff:* [General] *general* duties

(a) The Air Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Air Force, and the Chief of Staff *of the Air Force.*

(b) [The] *Under the authority, direction, and control of the Secretary of the Air Force, the* Air Staff shall—

(1) prepare for such employment of the Air Force, and for such recruiting, organizing, supplying, equipping *(including research and development),* training, [serving,] *servicing,* mobilizing, [and] demobilizing, *administering, and maintaining* of the Air Force, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Air Force and its preparation [for] *to support* military operations *by combatant commands*;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Air Force; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

[§ 8033. Reserve components of Air Force; policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard]

(NOTE: Section 8033 is relocated to chapter 803 as section 8019.)

§ [8034] *8033.* Chief of Staff: appointment; *term of office; powers and* duties

(a) [The] *There is a* Chief of Staff *of the Air Force* [shall be] appointed for a period of four years, by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves during the pleasure of the President. In time of war or *during a* national emergency declared by [the] Congress [after December 31, 1968], he may be reappointed for a term of not more than four years.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade.

(c) Except as otherwise prescribed by law and subject to section [8012(c) and (d)] *8013(f)* of this title, the Chief of Staff performs his duties under the [direction] *authority, direction, and control* of the Secretary of the Air [Force,] *Force* and is directly responsible to the Secretary [for the efficiency of the Air Force, its preparedness for military operations, and plans therefor].

(d) [The] *Subject to the authority, direction, and control of the Secretary of the Air Force, the* Chief of Staff shall—

(1) preside over the Air Staff;

(2) [send] *transmit* the plans and recommendations of the Air Staff to the [Secretary,] *Secretary* and advise [him with regard thereto] *the Secretary with regard to such plans and recommendations;*

(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise [supervision] *supervision, consistent with the full operational command vested in unified or specified combatant commanders under chapter 6 of this title,* over such of the members and organizations of the Air Force as the Secretary [of the Air Force] determines[. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title];

(5) perform the duties prescribed for him by [sections 141 and] *section* 171 of this title and other provisions of law; [and]

(6) keep the Secretary fully informed on matters considered or acted upon by the Joint Chiefs of Staff; and

[(6)] *(7)* perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, *the Secretary of Defense, or the Secretary of the Air Force.*

(e) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

§ [8035] *8034.* Vice Chief of [Staff; Deputy Chiefs of Staff:] *Staff:* appointment; powers and duties; succession to duties of Chief of Staff [and Vice Chief of Staff]

[(a) The Vice Chief of Staff and the Deputy Chiefs of Staff shall be general officers detailed to those positions.]

(a) There is a Vice Chief of Staff of the Air Force appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force.

[(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

[(1) The Vice Chief of Staff.

[(2) The Deputy Chiefs of Staff in order of seniority.]

(b) The Vice Chief of Staff of the Air Force, while so serving, has the grade of general without vacating his regular or reserve grade.

[(c) If the Vice Chief of Staff is absent or disabled or if that office is vacant, the senior Deputy Chief of Staff who is not absent or disabled shall, unless otherwise directed by the Secretary of the Air Force, perform the duties of the Vice Chief of Staff until a successor is designated or the absence or disability ceases.]

[(d)] *(c)* The Vice Chief of Staff has such authority and duties with respect to the Department of the Air Force as the Chief of Staff, with the approval of the Secretary of the Air Force, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff.

(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Air Force in the Air Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first.

§ 8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff: detail

The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

§ 8036. Surgeon General: [appointment,] *appointment;* grade

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§ [8072] *8037.* Judge Advocate General, Deputy Judge Advocate General: appointment; duties

(a) There is a Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force. The term of office is four years, but may be sooner terminated or extended by the President. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

(b) The Judge Advocate General of the Air Force shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State or Territory, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General shall, in addition to other duties prescribed by law—

(1) receive, revise, and have recorded the proceedings of courts of inquiry and military commissions; and

(2) perform such other legal duties as may be directed by the Secretary of the Air Force.

(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is two years, but may be sooner terminated or extended by the President. An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense.

(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

(NOTE: Section 8037 is relocated from chapter 807 without change.)

§ [8019] *8038.* Office of Air Force Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Air Force an Office of Air Force Reserve which is headed by a chief who is the adviser to the Chief of Staff, on Air Force Reserve matters.

(b) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Air Force Reserve from officers of the Air Force Reserve not on active duty, or on active duty under section 265 of this title, who—

(1) have had at least 10 years of commissioned service in the Air Force;

(2) are in grade of brigadier general and above; and

(3) have been recommended by the Secretary of the Air Force.

(c) The Chief of Air Force Reserve holds office for four years, but may be removed for cause at any time. He is eligible to succeed himself. If he holds a lower reserve grade, he shall be appointed in the grade of major general for service in the Air Force Reserve.

(NOTE: Section 8038 is relocated from chapter 803 without change.)

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CHAPTER 807—THE AIR FORCE

Sec.

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8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.

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§ 8062. Policy; composition; aircraft authorization

(a) * * *

(b) * * *

(c) * * *

(d) * * *

(e) Subject to subsection (f) of this section, chapter 831 of this title, and the strength authorized by law pursuant to section [138] *2871* of this title, the authorized strength of the Air Force is 70 Regular Air Force groups and such separate Regular Air Force squadrons, reserve groups, and supporting and auxiliary regular and reserve units as required.

(f) * * *

[§ 8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties]

(NOTE: Section 8072 is relocated to chapter 805 as section 8037, without change.)

§ 8074. Commands: territorial organization

(a) [The] *Except as otherwise prescribed by law or the Secretary of Defense, the* Air Force shall be divided into such organizations as the Secretary of the Air Force may prescribe.

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DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

(Public Law 97-252; 96 Stat. 718)

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TITLE XI—GENERAL PROVISIONS

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[PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS

[SEC. 1110. None of the funds appropriated pursuant to an authorization of appropriations in this or any other Act may be used for the purpose of consolidating any of the functions being performed on the date of the enactment of this Act by the Military Traffic Management Command of the Army, the Military Sealift Command of the Navy, or the Military Airlift Command of the Air Force with any function being performed on such date by either or both of the other commands.]

* * * * * * *

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1986

(As contained in section 101(b) of Public Law 99-190; 99 Stat. 1185)

A joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes.

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TITLE VIII

GENERAL PROVISIONS

* * * * * * *

[SEC. 8106. None of the funds made available by this Act may be used to alter the command structure for military forces in Alaska.]

ARMS EXPORT CONTROL ACT

(22 U.S.C. 2756 et seq.)

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CHAPTER 5—SPECIAL DEFENSE ACQUISITION FUND

SEC. 51. SPECIAL DEFENSE ACQUISITION FUND.—(a) * * *

* * * * * * *

(c)(1) The size of the Fund may not exceed such dollar amount as is prescribed in section [138(g)] *2871(g)* of title 10, United States Code. For purposes of this limitation, the size of the Fund is the amounts in the Fund plus the value (in terms of acquisition cost) of the defense articles acquired under this chapter which have not been transferred from the Fund in accordance with this chapter.

* * * * * * *

SEC. 53. ANNUAL REPORTS TO CONGRESS.—(a) * * *

(b) As part of the annual written report to the Congress required by section [139(a)] *2872(a)* of title 10, United States Code, regarding procurement schedules for each weapon system for which funding authorization is required, the President shall provide a report estimating the likely procurements to be made through the Fund.

*   *   *   *   *   *   *

ADDITIONAL VIEWS OF MR. DENTON

INTRODUCTION

The bill as reported is a compromise on matters that were extremely controversial within the Committee, and on several crucial issues decisions were taken by very narrow margins. The final vote reflects far more an approval of the compromise, and of the efforts of the Committee's Chairman, Ranking Minority Member, and other Senators in bringing it about, than it does endorsement of the need for substantial reorganization or of the draft bill itself.

Moreover, at the time that the final vote was taken on March 6, 1986, neither the bill itself nor the Report was available in final form, and the Report did not exist even in draft. Major changes have since been made to the format, order, wording, and arrangement of the bill, although not to its major provisions, and the limited time allowed for review of the Report made it difficult to ensure that it is in accord with the Committee's decisions and the points made in its debates in executive session.

The Committee did not meet to review either the bill in its final form or the Report as drafted and filed.

MAJOR PROBLEMS WITH THE REPORT

The Report states, in the section "Discussion of Problems," that "the Committee" concluded that "many serious problems remain" with the organization and decision-making procedures of the Department of Defense. In fact, the Committee as a body reached no such conclusion. Some members of the Committee believe that there are serious problems, but other members of the Committee strongly disagree with that position both as a general statement and in connection with specific allegations, such as the quality of advice provided by the Joint Chiefs of Staff.

The section "Discussion of Problems" is in fact drawn from the Staff Report "Defense Organization: The Need for Change," which explicitly did not represent the views of the Committee as a whole or of any of its members. That situation still pertains.

The Report states, in the section on "Background," that "During its markup sessions, the Senate Committee on Armed Services evaluated the Packard Commission's recommendations and found them to be consistent with the provisions of this bill." That statement is not wholly accurate. In two specific cases—the provisions governing the roles of the Chairman of the Joint Chiefs of Staff and of the newly created Vice Chairman—a majority of the Committee rejected the specific recommendations of the President's Blue Ribbon Commission on Defense Management, the Packard Commission.

GENERAL COMMENTS ON THE BILL AND THE PROCESS BY WHICH IT WAS PRODUCED

The bill itself is substantially changed from the staff draft originally submitted to the Committee for consideration. That does not necessarily make it good legislation. There remain serious questions about whether the bill would in fact lead to improvement of the organization and functioning of the Department of Defense or whether, in fact, it would make the situation worse.

Moreover, the legislation was marked up without the benefit of a single hearing covering many if not most of the specific proposals that it contained. There were hearings last fall on the proposals contained in the Staff Study, "Defense Organizations: The Need For Change," and in previous years on the general need for reorganization. The hearings last fall demonstrated fairly clearly that, whatever needs for change there might be, the changes required were not, on the whole, those proposed by the staff study. Moreover, many witnesses, including most current officials, contended that many of the problems identified by the staff study simply did not now exist, although they may have existed at an earlier time.

Nor was there even a single hearing on the legislation as it was shaped during the mark-up process, a process that was conducted entirely in executive session. The suggestion that hearings be held following the exhaustive mark-up was not seriously considered.

In consequence, the Committee and the Congress do not have the benefit of any formal outside evaluation of the effects and consequences of the legislation, of whether it provides real solutions to real problems, or of whether it may not do more harm than good.

The absence of hearings, of formalized consultation and evaluation, explain much of the confusion about the legislation in the media and among officials in the Government. That absence also explains much of the resistance and resentment of officials in the Department of Defense to the legislation, resistance and resentment to which some members of the Committee have taken public exception.

The bill would, if enacted, produce a massive shifting of powers and authorities. The Service Secretaries and Service Chiefs would lose power, the Combatant Commanders (CINCs) and the Chairman of the Joint Chiefs of Staff would gain it. A bifurcation would be created between the Chairman and Vice Chairman of the JCS on the one hand and the uniformed Service Chiefs on the other. There would be other readjustments of lesser significance, and the implementation of recommendations from other sources, such as the Packard Commission, could produce additional changes.

The result will invariably be an increase in policy disagreements and bureaucratic conflicts, but there is no authority short of the Secretary of Defense to resolve them. It is ironic that legislation that was motivated and justified in part upon the need to reduce the workload and span of control of the Secretary of Defense may, in fact, make his job substantially more difficult by an exponential multiplication of the issues that only he can resolve.

THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

The legislation proposes to reverse nearly 200 years of American history by, for the first time, designating by statute (Title I, Section 151) a single uniformed officer as the "Principal Military Advisor" to the President. That change in the role of the Chairman of the Joint Chiefs of Staff is profound in its implications.

Similar proposals have been specifically and overwhelmingly rejected by the Congress in the past—in 1947, 1949, and 1958—on the grounds that, in a democracy, no single military officer, no matter what his personal qualifications, should have such power and that no single officer could effectively or adequately perform the function. The issue is distinct from, although related to, the question of the establishment of a "general staff," which also characterized earlier debates about the organization of the Department of Defense and the powers of the Chairman and the members of the Joint Chiefs of Staff.

It is well to recall the legislative history. The position of Chairman of the Joint Chiefs of Staff was created by the National Security Act Amendments of 1949. Congressman Carl Vinson, speaking to the House on August 2, 1949, following conclusion of the conference with the Senate, described how the position came about and what was intended:

> Now let me tell you about the Chairman of the Joint Chiefs of Staff.
>
> Naturally, this subject was controversial in both the House and Senate committees, because of the fear of a single Chief of Staff and of possible military dictatorship in the country.
>
> Mr. Hoover [The Hoover Commission's Task Force on National Security Organization] and Mr. Eberstadt [The Eberstadt Task Force] were particularly concerned about the Chairman of the Joint Chiefs of Staff. They wanted a Chairman, and recommended one, but they wanted his duties clearly defined and wanted it made clear in the law that he was not to be a single Chief of Staff.
>
> The Senate proposed that this Chairman would be the principal military adviser to the President and the Secretary of Defense. Even though the Senate specified that the Chairman had to function as such when serving as the principal military adviser, nevertheless it was quite evident that had the Senate language been retained, the country would have had a de facto Chief of Staff over the armed services.
>
> In respect to the Chairman, I am pleased to advise the House that the Senate took the language proposed by the House conferees with only the change that the Chairman shall not have the right to vote in the proceedings of the Joint Chiefs of Staff.
>
> What the bill provides now is this: . . .
>
> Now, the most important provision of all of these is the language proposed by the House conferees that all of the Joint Chiefs of Staff as a body, including the Chairman, shall be the principal military advisers to the President,

> the National Security Council, and the Secretary of Defense.
>
> Our idea here was to make it certain that not the Chairman alone, as the Senate bill provided in substance, but all of the Joint Chiefs of Staff shall be the principal military advisers. By this we are trying as nearly as we can to prevent a single Chief of Staff concept from developing in the Pentagon or in the White House.
>
> To tie this point down, the House conferees proposed that the declaration of Congressional policy in the National Security Act be amended to provide that the Congress does not intend "to establish a single Chief of Staff over the armed forces nor an armed forces general staff." We cannot make it any clearer than it is as to what our intention is.
>
> What we have provided is a man who will expedite the business of the Joint Chiefs of Staff and preside at their meetings. We intend nothing more, and we do not want him to be anything more than that. I believe we have tied the point down as tightly as we can in law. Happily, the Senate agreed fully with the House conferees.

Although it is clear that the situation has changed and that an expanded role for the Chairman of the Joint Chiefs of Staff may be both necessary and useful, it is far from self-evident that the country will benefit from such a radical restructuring as the bill provides, and as the House provides in separate legislation. Unless we consider our predecessors to have been fools, we would do well to consider carefully the reasons for their decision on this matter.

Moreover, the Report language goes even further, in its discussion of Title I, Section 151(b), than the Committee's consideration of the question warrants. Specifically, it contends that "The Committee expects the Chairman to develop and offer his own advice without any implied mandate to reconcile it with the views of the other JCS members." Lest there be misunderstanding, that issue was not specifically considered by the Committee. Certainly the Chairman would be free to develop his own views, and would have a responsibility to do so, but at the same time it is clear, from the provisions in Section 151(e), that consultation is expected and, in most circumstances, required. The thrust of the Committee's consideration was to remove an implied requirement for *unanimity* on the JCS, not to remove the Chairman from all responsibility to consult, consider, debate, and seek consensus when possible, necessary, and useful.

Similarly, it is not at all clear that, as the Report says in reference to Section 151(c), the Committee intended that there by "only two ways in which members of the JCS other than the JCS Chairman may provide advice to the President, the NSC, or the Secretary of Defense." In fact, the intention of the Committee in accepting the compromise of which Section 151(c) was a part was purely and simply to accompany the designation of the Chairman as the "Principal Military Advisor" with the designation of the other members of the JCS as "Military Advisors."

The concomitant effect of the elevation of the Chairman of the Joint Chiefs of Staff to a position unparalleled and unprecedented in American history is the diminution of the roles of the other members of that body, particularly the Service Chiefs. The original proposal considered by the Committee would have completely destroyed the corporate nature of the Joint Chiefs of Staff and deprived not only the Chairman but also the country of the benefit of their *collective* consideration of major problems.

The provisions contained in the bill as reported represent a compromise by the Committee to preserve some of the corporate nature of the Joint Chiefs of Staff without impairing the power of the Chairman to act as the Principal Military Advisor. By retaining the requirement that the JCS meet together under the Chairmanship of the Chairman and that the Chairman consult with and seek the advice of the other members of the JCS "unless impracticable," the compromise language seeks to broaden the advice that the Chairman provides and keep the other members of the JCS actively involved in the process.

The Report language cites the interim Report of the President's Blue Ribbon Commission on Defense Management in defense of the bill's unprecedented grant of power and authority to the Chairman. The bill does not, however, include the language recommended by the President's Blue Ribbon Commission:

> Current law should be changed to designate the Chairman of the Joint Chiefs of Staff (JCS) as the principal uniformed military advisor to the President, the National Security Council, and the Secretary of Defense, representing his own views as well as the corporate views of the JCS.

That specific language was offered as an amendment, but was rejected by the Committee.

Since the language of the President's Blue Ribbon Commission specifically would require the preservation of the corporate nature of the JCS and the representation of its corporate views to senior decision makers, and that requirement was intentionally rejected for inclusion in the bill, it is inaccurate to say that the bill is "consistent" with the President's Blue Ribbon Commission on this issue.

The bill assigns to the Chairman a substantial number of powers and authorities, both those currently assigned to the JCS as a body and several new ones as well. Many of them are specified in Title I, Section 152(d). That listing is not comprehensive, however, and other powers and authorities are contained in other sections of the bill, as are a number of provisions allowing for discretionary grants of power and authority to the Chairman.

The Committee did not consider whether the Chairman could adequately and effectively handle all the powers and authorities, or what kind of staffing support the Chairman would require. It did not consult with outside individuals, even including the current Chairman and members of the JCS, about that matter.

The powers are so substantial, however, that the Chairman will require a large staff, and the bill allows him to have one.

In fact, the many powers and authorities granted to the Chairman will not be exercised by him but will perforce be delegated to the faceless members of the Joint Staff. The result will be the creation of a new bureaucracy, and one that has even less accountability than those from which current responsibilities are transferred.

Finally, the Committee included a provision [Title I, Section 152(a)(2)], which was highly contested and strongly opposed by some members, to require that the term of a sitting Chairman of the Joint Chiefs of Staff expire "not later than six months after the accession to office of a new President." In the view of several members of the Committee, that provision is a dangerous step toward even further politicization of the office of the Chairman.

Politicization has been evident for some years, but the tremendous powers given to the Chairman by the bill make the situation even more serious.

THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Somewhat to the surprise of several members of the Committee, the provisions governing the creation of the new position of Vice Chairman of the Joint Chiefs of Staff proved to be more controversial, and less susceptible to compromise solution, than those governing the Chairman and the JCS as a body.

The bill provides [Title I, Section 153(b) and (d)] for the creation of a Vice Chairman who is senior to all the other members of the JCS except the Chairman and who acts for the Chairman in the event of his absence or disability "unless otherwise directed by the President or Secretary of Defense."

The current members of the Joint Chiefs of Staff, the immediately previous Chairman, and many other authorities, took strong exception to the provision that the Vice Chairman act on behalf of the Chairman. Its effect and intent is to destroy the currently operative rotation among the Service Chiefs as Acting Chairman, and thereby to diminish substantially the incentive and rewards for the Service Chiefs to participate actively and effectively in the consideration of problems and formulation of advice. Many senior officers closely involved with the functioning of the JCS contend that the provision addresses a problem that no longer exists and has not existed under the current Chairman and his predecessor.

Moreover, the specification that the Vice Chairman rank ahead of all the members of the JCS except the Chairman has also been the source of considerable disagreement. Conferring a superior rank upon an individual who has no fixed responsibilities except as the alter ego of the Chairman is hard to reconcile with the considerable responsibilities incumbent upon the Service Chiefs in their capacities in their own Services.

Nonetheless, the Committee rejected the suggestions that the Vice Chairman rank as the sixth rather than as the second of the members of the JCS, that the current rotating system for the Acting Chairman be continued, and that the Vice Chairman not act as Chairman or do so only as part of the rotation.

In this instance as well, the position taken by the Committee and incorporated in the bill is substantially at variance from the position taken by the President's Blue Ribbon Commission. That Commission supports the creation of the Vice Chairman, but defines his standing and responsibilities in a very different way:

> . . . The position of a four-star Vice Chairman should be established by law as a sixth member of the JCS. The Vice Chairman should assist the Chairman by representing the interests of the CINCs, co-chairing the Joint Requirements Management Board and performing such other duties as the Chairman may prescribe.
>
> The Secretary of Defense, subject to the direction of the President, should determine the procedures under which an Acting Chairman is designated to serve in the absence of the Chairman of the JCS. Such procedures should remain flexible and responsive to changing circumstances.

The specific language of the President's Blue Ribbon Commission was offered as an amendment to the provisions of the bill governing the Vice Chairman and was rejected by the Committee. It is, therefore, inaccurate to state that, on this issue, the bill is consistent with the Packard Commission's recommendations.

In that respect, it must be emphasized that the President's Blue Ribbon Commission places a great deal of weight on the importance of the Joint Requirements Management Board as a central element in the effort to increase procurement efficiency and control costs in DoD. The bill's failure to conform to the Commission's recommendation on the role of the Vice Chairman, therefore, appears seriously to impair, even before their consideration, a number of the Commission's most important recommendations.

SWEEPING REPLACEMENT OF THE STATUTES GOVERNING THE MILITARY DEPARTMENTS

The extent of the change to the statutes covering the Department of Defense in general and the Office of the Secretary of Defense in particular is comparatively minor because of the Committee's firm rejection of the staff proposals for a substantial reorganization to provide for a mission orientation.

At the same time, however, the changes in Title I, Section 101, of the bill remove the current power given to the Secretary of Defense to transfer, reassign, consolidate, or abolish any DoD function, power, or duty vested by law in DoD or in a DoD officer, official, or agency. Although the Report notes the possible unconstitutionality of the one-house veto and makes a general judgment that the authority "cannot be justified," it is important to recall that the provision was originally enacted into law after deliberate, careful, and calculated consideration, both in 1949 and 1958. Its repeal may in fact make good sense, but its consequences should be considered carefully.

The sweeping rewrite of the statutes governing the military departments—Army, Navy, and Air Force—is a different and far more serious matter. The bill and Report make massive changes to the authorities and responsibilities of the Service Secretaries and the Service Chiefs, justified by the intention to strengthen and clarify the authorities of the Secretaries of the Military Departments and to make the applicable statutes consistent.

To accomplish that, the statutes governing the Department of the Army were used as the model and, as the Report indicates, applied to the Department of the Air Force and the Department of the Navy with the minimum possible changes. The result produces anomalous situations, such as the lack of any reference to the sea service mission of the Department of the Navy.

The effect clearly is substantial, but the Committee has not, through hearings, sought to determine what it will be. Nonetheless, several areas of concern are beginning to emerge.

First, responsible legal officials have recently pointed out that the authorities of the Service Secretaries have been acquired over many, many years, based on many statutes, revisions to statutes, legislative history, executive and Congressional interpretations of law, and a massive number of court and administrative law cases. The sweeping abrogation or modification of existing law not only will call much of that history and authority into question and produce administrative confusion or chaos, but it will, in all probability, unleash a flood of litigation that will continue until authorities and responsibilities have been redefined. In other words, in our increasingly litigious society, everyone who can sue will do so.

Second, the Service Secretaries currently have authority to manage their resources in a way that maximizes efficiency and economy. The bill does away with broad authorities and substitutes eleven specific areas for which each Secretary is responsible. By providing a detailed enumeration of authorities, it by inference excludes many more, some of which are well established in law and practice. There is, for example, no power given in the bill to the Secretary of the Navy to construct, arm, equip, and employ Naval vessels. There is no specific power or mandate for the Service Secretaries to ensure the efficient utilization of resources.

Third, the attempt to provide uniformity fails to accommodate the diversity among the Departments and the military services. For example, the Department of the Navy includes two services (the Marines and the Navy), and could in time of war include a third (the Coast Guard). Yet there is confusion in the bill about where authorities can or should be located. Functions that may, in the other Departments, fall properly under the Chief of Staff must, in the Navy, fall under the Service Secretary. That is, for example, the case with the Judge Advocate General, a provision now properly included in the bill but omitted in the staff revision of the bill as marked up by the Committee. There may be other instances of the same sort.

Fourth, the attempt to achieve uniformity resulted in the elimination of several provisions that, although having little practical effect one way or the other, have historical basis and meaning. The Army has lost the long-standing statutory authority for the Administrative Assistant to the Secretary, the Navy the long-standing statutory provision making the Chief of Naval Operations the "principal naval advisor" to the President and the Secretary of the Navy. Although there may have been no compelling reason other than history and tradition to retain such provisions, there were no compelling reasons at all for deleting them.

Fifth, a number of things simply fell out or were left out along the way. For example, there is no provision for comptrollers in the Service Departments. That may or may not be significant, but the current legal authorities have been deleted, and some of the Services believe that problems will result from that fact. Nor are there provisions for where the Service general counsels would fit into the organization. There are, no doubt, additional instances of the sort. The problem is that nobody knows for sure.

Finally, the legislation prescribes substantial cuts in personnel, not only for the military departments but also for the combatant commands and for the defense agencies. The members of the Committee clearly believe that substantial reductions in personnel can be made, but the Committee has not attempted to find out, through hearings, what the effects of such reductions can or may be, or whether there may be better ways of reaching the same goal.

The lack of hearings about the bill's provisions and consequences may, in fact, be most serious for the Military Departments, since they are the agencies that, through the control of funding for R&D and procurement, have the most active interaction with the private sector and for which, because of their small size, personnel reductions could have major and unforseen consequences.

CONCLUSION

The Committee's efforts, which benefitted greatly from the leadership provided by the Chairman and Ranking Minority Member, resulted in a bill that was much improved over the draft.

At the same time, however, it must be recognized that the legislation is so broad and sweeping that it may well have consequences that are not intended and that are now unforseen.

If our goal is to improve the organization and functioning of our defense establishment, then we should be sure that whatever legislation we pass will bring about that result. We should be willing to expend sufficient time to ensure that we will not, in the near future, have to reopen the complicated and sensitive issue of defense organization in order to remedy problems that were created by the very legislation that was intended to eliminate problems.

Both the Committee and the membership of the Senate as a whole should be willing to devote the necessary time and effort to produce truly effective legislation.

JEREMIAH DENTON.

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